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Senate

The Senate met at 9:15 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, we are dependent on You for everything. We could not breathe a breath, think a thought, move a muscle, work a day, or develop our lives without Your moment-by-moment provision. We place our finger on our pulse; thank You for the gift of life. We breathe in, saying ''Bless the Lord, O my soul''; and breathe out saying, ''And all that is within me bless His holy name.''

We list all that is ours from Your loving provision. We praise You for food, our physical bodies, people in our lives, the opportunities and challenges of today. We want to make this a day for constant and consistent conversation with You in which we repeatedly say thank You, Lord, for the abundant mercies that You give us in a never-ending flow of goodness.

You know that a thankful heart is not just the greatest virtue, but You have made it the parent of all virtues and the source of the transformation of our attitudes. Every virtue devoid of thankfulness is maimed and limps along the spiritual road. With everything that is within us, we thank You. May this be a day for constant thanksgiving for the privilege of life. In Your holy name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, there will be a period for morning business until 10 a.m., with Senator LEAHY to speak for up to 10 minutes, Senator GRAMM for up to 20 minutes, and Senator GRAMS for up to 10 minutes.

Following morning business, the Senate will resume consideration of the terrorism prevention conference report. Under the order, motions to recommit are in order and limited to 30 minutes of debate each. Senators can expect rollcall votes on or in relation to those motions prior to a vote on adoption of the conference report.

Following adoption of the conference report, there will be 60 minutes of debate prior to the vote on cloture on the motion to proceed to the Whitewater resolution. It is still possible we might consider the immigration bill today if we can get an understanding about relevant amendments. It is very important legislation and broadly supported by the American people. We would like to complete action on that and then move to the Kassebaum-Kennedy health care measure yet this week and complete action on that. That may or may not be possible, but we will do our best.

IN TRIBUTE TO SECRETARY OF COMMERCE RONALD H. BROWN AND OTHER AMERICANS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate resume consideration of Senate Resolution 241.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 241) in tribute to Secretary of Commerce Ronald H. Brown and other Americans who lost their lives on April 3, 1996, while in service to their country on a mission to Bosnia.

The Senate resumed consideration of the resolution.

Mr. DOLE. Mr. President, Chaplain Ogilvie said it best Monday in his prayer marking the Senate's return after a 2-week recess when he said: ''Our hearts are still at half-mast.''

Like all Senators, I was saddened by the tragic April 3 airplane accident that led to the loss of Secretary of Commerce Ron Brown and 32 other Government and business leaders.

I was not privileged to know Secretary Brown as well as many of my colleagues, but in my dealings with him, I was impressed by his professionalism, his wit, and his ability to get things done.

The outpouring of emotion that followed his death is testimony to the fact that not only was Secretary Brown an outstanding public servant, he was also an outstanding friend who touched many lives through his generosity.

The 32 other Americans lost in the accident were also friends, parents, sons, daughters, brothers, and sisters.

And I know I speak for all the Senate in saying that our thoughts and prayers remain with the Brown family, and with the families and friends of all the victims of this tragedy.

Mr. President, on Monday, at the request of the Democrat leader and myself, Senate Resolution 241, honoring Secretary Brown and the 32 other Americans who died in the accident, was read for the information of the Senate.

I want to thank Senator LOTT for his cooperation.

At this time, Mr. President, I ask unanimous consent that Senate Resolution 241 and the preamble be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 241) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 241

Whereas, Ronald H. Brown served the United States of America with patriotism and

skill as a soldier, a civil rights leader, and an attorney;

Whereas, Ronald H. Brown served since January 22, 1993, as the United States Secretary of Commerce;

Whereas, Ronald H. Brown devoted his life to opening doors, building bridges, and helping those in need;

Whereas, Ronald H. Brown lost his life in a tragic airplane accident on April 3, 1996, while in service to his country on a mission in Bosnia; and

Whereas, thirty-two other Americans from Government and industry who served the Nation with great courage, achievement, and dedication also lost their lives in the accident: Now, therefore, be it

Resolved, That the Senate of the United States pays tribute to the remarkable life and career of Ronald H. Brown, and it extends condolences to his family.

SEC. 2. The Senate also pays tribute to the contributions of all those who perished, and extends condolences to the families of: Staff Sergeant Gerald Aldrich, Duane Christian, Barry Conrad, Paul Cushman III, Adam Darling, Captain Ashley James Davis, Gail Dobert, Robert Donovan, Claudio Elia, Staff Sergeant Robert Farrington, Jr., David Ford, Carol Hamilton, Kathryn Hoffman, Lee Jackson, Steven Kaminski, Katheryn Kellogg, Technical Sergeant Shelley Kelly, James Lewek, Frank Maier, Charles Meissner, William Morton, Walter Murphy, Lawrence Payne, Nathaniel Nash, Leonard Pieroni, Captain Timothy Schafer, John Scoville, I. Donald Terner, P. Stuart Tholan, Technical Sergeant Cheryl Ann Turnage, Naomi Warbasse, and Robert Whittaker.

SEC. 3. The Secretary of the Senate shall transmit a copy of this resolution to each of the families.

Mr. DOLE. Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be the period for the transaction of morning business for not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

EXTREMISM: THE MANTRA OF THE MINORITY

Mr. GRAMS. Mr. President, if there is 1 day that dramatically highlights the growing anxieties of middle-class Americans, it is April 15. During this tax week of 1996, I want to share some thoughts on taxes, Congress, and a certain word that has crept into a place of prominence here on Capitol Hill.

Since the opening days of the 104th Congress, my colleagues on the other side of the aisle have come to the floor repeatedly to talk of ''extremism'' and ''extremists.''

These are not words to be tossed around lightly, and yet more than 100 times over the past 16 months, those are the very words they have used to describe the work of this Congress. ''Extremist'' has become the mantra of the minority, repeated over and over when all the arguments have been exhausted and refuted, and name calling is all that remains.

The Contract With America ''is simply the wish list of the extreme faction of one political party,'' says one.

''The sweeping and extremist approach in this bill poses a grave threat to all Americans, especially children,'' says another.

And finally, ''If moderation does not prevail, this level of extremism will ultimately take our country backward, not forward, and the damage will be felt not by us, but by generations to come.''

Of course, the rhetoric has not been confined to this Chamber alone, or to the other body. The Clinton administration, and particularly the President and Vice President, have repeatedly engaged in it as well, as they recite from the pages of this well-worn script. In just seven news conferences and speeches last year, Vice President GORE used some version of the word ''extremist'' 22 times in describing our efforts to reform the way Government undertakes the people's business.

''Extremist groups.''

''Extremist measures.''

''Extremist factions.''

''The extremist, radical members of their caucus.''

''An extremist set of priorities.''

''An extremist agenda.''

You would think from all the dramatics that something truly horrible is going here. So, Mr. President, what's happening that has my Democrat colleagues running so scared? What is Congress doing that is so radical, so dangerous, so wrong, so extreme?

Here are the shocking highlights:

We accomplished what a quarter century of Congresses couldn't when we balanced the Federal budget. This Congress is not willing to let our children and grandchildren collapse under a load of debt that we have created.

We have taken responsible steps to control spending, reining in the Federal Government and reducing its role as the dominating force in American life.

Working families would keep billions of their own money under the tax plan passed by Congress. We offered families a $500 tax credit for each child, eliminated the marriage penalty that discriminated against married couples, and helped bring and keep families together through adoption and elderly care tax credits.

We are also not willing to sit by and let Medicare dissolve into bankruptcy. Under legislation passed by this Congress, seniors would be assured that Medicare—for some, their only link to health care insurance—would be rescued from its impending insolvency.

Our plan to reform the welfare system encourages recipients to seek a life beyond their monthly welfare checks, while it protects the American taxpayers from the abuses of the past.

Mr. President, have my colleagues across the aisle become so insulated from the public and isolated from reality that they have forgotten what qualifies as extreme out in the real world? Our work on behalf of the Nation's families, taxpayers, senior citizens, children, and job providers could hardly be considered extreme. Far from it—what we have accomplished is exactly what the American people sent us here to carry out.

So how do you think it makes them feel to see their dreams for the Nation dismissed on the Senate floor as the notions of extremists?

If you really want to talk about extremism, there is a good reason why so many American families have April 15 circled on that calendar taped to the refrigerator door. They have experienced extremism in their Government right where it hurts the most—the family wallet—and they are reminded of that fact every year when tax day rolls around.

Under the current administration, Americans are paying more in Federal taxes this year than they have ever paid before.

President Clinton started the trend with his recordbreaking $241 billion tax hike in 1993, which raised taxes on every member of the middle class. Add to that the new taxes imposed by the President in his latest budget, and Americans will be paying a half trillion more in taxes than we did before President Clinton took office. That is an additional $758 every year, for the next 10 years, for every taxpayer in this country.

The American people say that is extreme.

The tax load has become such a burden that Tax Freedom Day—the day we are no longer working just to pay our taxes and can begin keeping that money for ourselves—will not arrive this year until May 7. That is the latest ever. It means working Americans have been on the job from January 1 through today, and have not been allowed to keep even a dime of their own money. That will not happen for another 20 days.

And by the way, families in my home State of Minnesota will have to wait even longer. Because State taxes in Minnesota are higher than the national average, my constituents are forced to hold out an additional 8 days until their Tax Freedom Day arrives.

And the calculations for Tax Freedom Day do not include the additional days we are forced to work to cover the heavy costs of Washington's unnecessary and burdensome regulations as well. If it did, we would not be marking our freedom until the first week of July. That is a cruel joke, considering that is when we are also celebrating Independence Day.

The American people say that is extreme.

When President Clinton was elected in 1992, Federal taxes on a median-income American family—Federal taxes on a median-income American family—totaled $12,770. By last year, that same family was paying a total of $14,813 in taxes—over $2,000 a year more per median family since 1992. And now 26.5 percent of every family's income goes directly to Washington.

That is not exactly what the American people had in mind. In a survey conducted last year, they were asked what percentage of their income should reasonably go to paying taxes. This was for all levels of government, including social security taxes, sales taxes, excise taxes, and property taxes. Across the board, regardless of income group, age, education, gender, race, or political affiliation, the answer was the same: most people said a maximum tax burden of 25 percent would be fair.

No wonder they are feeling squeezed today. Far from the 25 percent tax rate they think is reasonable, the typical American family faced a total tax burden—and that includes Federal, State, and local taxes—of 38.2 percent of all their income in 1995. That is more money going to Washington than families spend for food, clothing, shelter, and transportation combined.

The American people say that is extreme, too.

I know that is what Minnesotans are saying. I held a series of town meetings back home last week, in a part of the State where life can be tough and money doesn't come easy. It is home to hard-working people who sometimes hold down two jobs, and spend as many as 7 days a week on the job, struggling to stay afloat. They ask nothing more of their Government than the opportunity and freedom to make something of their lives. But high taxes continue to block the way.

We talked about taxes at every stop over the recess, and how 40 years of Washington's economic extremism have trapped working families short of their dreams.

They are frustrated. They do not see where their tax dollars are going, or how those dollars are directly improving their lives and their communities. And given that, they do not understand how Congress can keep coming after them for more.

During one of our stops, a college student pulled me aside after my town meeting in Duluth. He said, ''It seems like the federal government is reaching deeper and deeper into our pockets, but in my case, I don't have any more to give.'' He went on to say, I don't qualify for student aid, so I'm working for my tuition and rent. I'm paying all these taxes, but none of it comes back to benefit me. So please—cut my taxes and let me keep my own money.''

People do not understand what is happening in Washington. The crowds at my town meetings wanted to know why the President campaigned on a promise to balance the budget and cut their taxes, but then vetoed the balanced budget and tax relief bill passed by this Congress, and, by the way, passed the largest tax increase on its own.

I had to admit that I did not understand either. ''Chalk it up to election-year politics,'' I said.

Would the President come around and sign your bill this year, they wondered?

I had to say, ''It doesn't look good.'' ''Not this year. Not this President.'' And the people just shook their heads.

Listen to the people, Mr. President—they will tell you just what they told me. Cutting taxes for working families is not extreme. Preserving Medicare is not extreme. Giving people opportunities to pull themselves out of poverty is not extreme.

If anything is extreme about our government, it is the past practices of a Congress and President willing to steal from tomorrow's kids to finance another Federal handout or social program or pork project today. That is what the people sent us here to change.

Mr. President, there are despicable people in this world—assassins, bombers, terrorists—who are filled with such rage and contempt that they deserve to be branded as ''extremists.''

But in America, a man or woman who works themselves to the bone, who struggles to put food on the table and keep a sturdy roof over their family's heads, who just wants to sign their tax return knowing that this government does not take their tax dollars for granted anymore—is not an extremist.

Yet, Mr. President, any time my colleagues dismiss the people's taxpayers' agenda as extreme, they pin that label on every one of those Americans.

During tax week, 1996, my colleagues would do well to acknowledge the debt of gratitude we owe the American taxpayers. After all, their sacrifices have built this massive Federal Government. I leave you with this question—during tax week, 1996, when Washington's burden has become too much and the people are begging for our help, what is this Government willing to sacrifice in return?

Mr. BURNS. Mr. President, might I inquire, are we in morning business?

The PRESIDING OFFICER. The Senate is in morning business.

RETIREMENT OF UNIVERSITY OF MONTANA FOOTBALL COACH DON READ

Mr. BURNS. Mr. President, I rise today to echo what is probably on the mind of everybody who ever attended school at the University of Montana, and every Grizzlies fan in my home State. Coach Don Read, the football coach of the last 10 or 11 years, is retiring. He told us all Monday that he was retiring in order to spend more time with his wife, Lois, and the rest of the family, and to move in a new direction.

We are losing a legend in Missoula. We are saddened by that, even a little bit stunned, because Coach Read is the winningest coach in the history of the University of Montana. When he arrived in Missoula 10 years ago, he recruited heavily, ushering in the ''Read Era'' of UM, an era that culminated in the university's first-ever Division One-double-A national championship just this past season. It was a thrilling ride for every one of us in Montana, and we cannot help but think of what is ahead for the Griz because of the foundation and the base that Coach Read has laid.

Mr. President, Vince Lombardi, the legendary coach of the Green Bay Packers, said ''winning is a habit.'' No one typified the winning habit more than Coach Read. Since taking over the University of Montana football program in 1986, he has never had a losing season. His overall record there was 85 and 36. That is a winning average of better than 70 percent, the best any coach at UM and the sixth best in the history of the Big Sky Conference.

In his tenure at the University of Montana, Coach Read even managed to pull off 10 straight wins against his cross-state rival and another one of my favorite teams, Montana State University. His overall coaching record including his many years coaching in Oregon is an impressive 154 and 127 and one—he had one tie.

Mr. President, I could go on about all the ''firsts'' and the ''mosts'' and the awards of Coach Read and what he has earned in his time at the University of Montana. Most wins by a Griz football team in a single season, five playoff appearances, three-time Big Sky Coach of the Year, selected Division One-double-A Coach of the Year by two national magazines, but all of that pales in comparison to Don Read as a man, and as a man that I know. He is loved and respected by his players and his colleagues and he is a fiercely devoted family man.

You know they say the coach will probably be judged on the wins and losses. But basically, what effect he has had on the young men who have played on his team is just absolutely—you cannot measure that. By his own words, the demands of coaching is a 16-hour-a-day, 7-day-a-week job. It has a way of catching up with you. Coach Read wants to make sure that his players will have a full-time coach that devotes all of his energy toward that team. In that respect, I admire him for putting the needs of a team before his own.

So the University of Montana is really losing one of the great ones. We want to thank him for the season just passed. The national championship is one that is not written about and is not voted on by sportswriters. It is played. Of course when you want it, he beat Marshall here in the State of West Virginia. It was a great thrill for all of us who live in the State of Montana.

Coach Read said he believes his replacement will be the best coach ever. I hope he is right. But I tell you he will be stepping into some awfully big

shoes. Just like anybody else, he will have to get his cleats the old-fashioned way. He will have to earn them. That is the way it will be.

Mr. President, we bid farewell to a man who has brought so much respect and so much quality to the University of Montana and the football program, and we say goodbye, but we do not say so long.

I yield the floor.

PROGRESS TOWARD A BAN ON ANTIPERSONNEL LANDMINES

Mr. LEAHY. Mr. President, I want to bring Senators up to date on the progress of the past 2 months since the Leahy amendment for a moratorium on the use of antipersonnel landmines was signed into law.

That amendment received bipartisan support from about two-thirds of the Senate. It was supported by the House-Senate conference committee, and it was signed by the President on February 12. I want to thank all those Senators who voted for it. I would also like to thank those Senators who have come up to me since the vote who did not vote for it and said now they wished they had because of the havoc that the mines have wreaked in Bosnia.

In fact, in Bosnia just since December, 38 NATO soldiers have been injured, 7 have been killed by landmines, including 3 Americans. There are 3 million landmines left in Bosnia. To put that in perspective, there are 3 million landmines in a country about the size of Tennessee. They will kill and maim civilians for decades after our troops leave. Children going to school, farmers working in their fields, and people going to market will be dying long after most of us have left the U.S. Senate.

Over the past several years, I have sponsored legislation against antipersonnel landmines. The purpose of my legislation has been to exert United States leadership so that pressure would build on other countries to follow our example. During a lot of that time this was seen as some kind of a crusade of civilians against the military. It was never the case. It was never intended by me to be the case. In fact, one of the greatest encouragements I had in my efforts to ban landmines was the support I received from combat veterans around this country.

Those who say we need antipersonnel landmines should read the April 3 full-page open letter to President Clinton that appeared in the New York Times. In this full-page letter to the President, 15 of the country's most distinguished retired military officers called for a ban on the production, the sale, the transfer, and the use of antipersonnel landmines. They say such a ban would be both ''humane and militarily responsible.''

Look at some of the people who signed this. These are not just wild-eyed theorists. They include Gen. Norman Schwarzkopf; former Chairman of the Joint Chiefs of Staff, Gen. David Jones; the former Supreme Allied Commander, Gen. John Galvin; former Commander in Chief of the U.S. Southern Command, Gen. Frederick Woerner; former Commmanding General, U.S. Readiness Command, Gen. Volney Warner. Mr. President, these are generals who know what has happened.

I ask unanimous consent that a copy of the generals' letter be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. There is no doubt that antipersonnel landmines have some use. Any weapon does. But to those who would argue that whatever use they have outweighs the devastation they inflict on whole societies, I would answer that the commanders of our forces in South Korea, Vietnam, NATO, and Desert Storm say otherwise.

They say we can get rid of these landmines. These generals have used antipersonnel landmines and have seen what they do. They say these indiscriminate weapons made their jobs more dangerous, not safer. They remember their troops being blown up by their own minefields.

Today, it is landmines that our troops fear the most in Bosnia. No army is going to challenge our men and women in Bosnia, but there are hidden killers everywhere. A $2 antipersonnel mine will blow the leg off the best-trained, the best-equipped, the best-motivated American soldier.

In the 2 months since February, Canada, the Netherlands, Australia and, yesterday, Germany, have announced they will unilaterally, effective immediately, ban their use of antipersonnel landmines. These countries have gone way out ahead of the United States in showing leadership to ban landmines. Several, like Germany, said they will destroy their stockpile of these weapons. They are taking this action, which far surpasses what the United States has done, to lead the rest of the world.

Mr. President, next Monday, the United States will join over 50 countries in Geneva in the final session of negotiations on a treaty to limit the use of antipersonnel landmines. We already know that any agreement is going to fall far short of what is needed to solve this problem. Countries have insisted on exceptions and loopholes that are just going to assure that landmines will continue to maim and kill innocent civilians for decades to come.

In the weeks of negotiations there have not been more than 2 minutes of discussion on the banning of these weapons—the simplest and easiest thing to do, and what all of these distinguished retired American generals asked us to do. The only way we are going to get rid of antipersonnel landmines is by leadership that energizes the rest of the world.

A year and a half ago in a historic speech at the United Nations, President Clinton declared the goal of ridding the world of antipersonnel landmines.

There is no reason why today, with the world's attention focused on Bosnia, where we are spending tens of millions of dollars just to try to find the mines, we cannot join with our NATO partners, who have gone way out ahead of the United States, and renounce these insidious weapons. Let the United States—the most powerful nation on Earth—instead of being a follower in this, become the leader. A law we voted for in the Senate, now on the books, says we will halt our use of these landmines in 3 years. It should happen immediately, and it should be permanent, as Germany, Canada, and the others have done. Our senior retired combat officers support it. Hundreds of humanitarian organizations support it. They have seen the limbs torn off children at the knee.

If I have anything to do with it—and I intend to—this country is going to end this century having banned these terrible weapons once and for all. I hope the President and his administration will do what the United States Senate has already done—shown leadership in this. I hope that the rest of the Congress will do that, and then I hope that the United States will come back into a leadership role in banning landmines. It is what our NATO allies want, it is what our retired generals want, and it is what our men and women in the Armed Forces want.

Mr. President, I ask unanimous consent that an article in the April 8 edition of Newsweek magazine, by David Hackworth, America's most decorated soldier, entitled, ''One Weapon We Don't Need,'' be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsweek, Apr. 8, 1996]

ONE WEAPON WE DON'T NEED

(By David H. Hackworth)

Last February, Sgt. 1/C Donald A. Dugan was killed instantly on a snowy patch of ground in Bosnia. An antipersonnel mine exploded while the veteran U.S. Army reconnaissance sergeant was attempting to disarm it. The explosion drove a piece of the steel disarming tool into his forehead. On a dozen different killing fields around the world in the past 50 years. I've seen thousands of soldiers and civilians blasted apart by land mines. In northern Italy, where I served as a 15-year-old soldier boy at the end of World War II, I saw an army captain's legs ripped off by a land mine. In Bosnia last January, I came within minutes of becoming a casualty myself from a land-mine explosion. But I've never seen a battle in which land mines made a difference to the outcome. They are ugly and ineffective weapons, and they ought to be outlawed.

Land mines are indiscriminate killers. They kill not only during the conflict, but decades after the last shot was fired. The technology has improved; a modern mine can be programmed to blow itself up after a few weeks or months, reducing the postwar threat to civilians. But anti-personnel mines are still not ''smart.'' They can't tell a good guy from a bad guy, a soldier from a civilian, an adult from a child. And some fail to blow themselves up. When millions of mines are

scattered across a battlefield by air and artillery, even a tiny ''dud rate'' will leave a substantial number lying in wait for innocent victims.

Of all the instruments of terror used on the battlefield, mines are the most inhumane. The wartime casualties are young men whose lives are either snuffed out or ruined forever by crippling injuries. Even soldiers who escape from a minefield unscathed are haunted by the experience. Many cases of posttraumatic stress disorder, a serious psychological malady, were caused by the preying fear of mines and booby traps. Years later, a walk across an open field bring back the old dread: What's under those leaves? Do I dare put my foot on that freshly turned earth? Walk through a minefield, and you'll never be young again.

During the Korean War, tens of thousands of soldiers on both sides were felled by land mines. Many of them were killed by their own mines, recklessly thrown down in haste, their location unrecorded. In 1952, as a 21-year-old lieutenant, I was ordered to clear a path through an unmapped minefield—one of our own. I argued with my colonel about the advisability of doing such work on frozen, snow-covered ground. Lieutenants seldom win disputes with colonels, so the mine-clearing detail proceeded as ordered until a fine black sergeant named Simmons tripped the wire on a ''Bouncing Betty'' mine. It popped up from the ground and blew off the top of his head, covering me with his blood and brains. Moments later, another noncom went nuts and stomped out into the minefield, screaming: ''I'll find the f------ mines, I'll find the f------ mines!'' He was tackled, restrained and led away.

In Vietnam, the U.S. Armed Forces also used land mines irresponsibly, dropping millions of them at random by air. The enemy quickly learned how to disarm these weapons and recycle them for use against us. The infantry battalion I commanded in the Ninth Division took more than 1,800 casualties in a year and a half, most of them caused by recycled U.S. ordnance. Mines cannot secure a flank or defend a position by themselves. For a minefield to be even marginally effective, it must be protected by friendly troops, to knock off the bad guys who want to clear a path or use the mines against you.

Mines never stopped any unit of mine from taking its objective—or the enemy from getting inside my wire. Anyone who has ever been in battle, especially in Korea or Vietnam, has seen enemy sappers crawl through mines and barbed wire and get into their positions. I once faced a Chinese ''human wave'' attack in Korea. My company was dug in on high ground, with plenty of weapons, ammo and artillery support. Out in front of our position we laid a carpet of mines and flares. The enemy attacked in regimental strength, outnumbering us 9 to 1. They walked through our minefield—and our gunfire—without missing a beat. They cut my company in half and within an hour were two miles to the south, in our rear. The only way out was to move north, so we trudged through our own somewhat depleted minefield to escape, losing two men in the process.

Most serving generals especially the desk jockeys, are in favor of mines. The real warfighters usually want to get rid of them. Whatever defensive punch is lost would be more than offset by the new firearms and missiles that give today's infantry platoon more killing power than a Korea-vintage battalion. ''Mines are not mission-essential,'' says one general, ''but they are budget-essential.'' In 1996, the U.S. Army budgeted $89 million for land-mine warfare. Now the army is fighting to protect every nickel.

Still, some retired generals want to ban mines, and I agree with them. Governments can declare land mines illegal, just as chemical weapons were prohibited. Sure, thugs like Saddam Hussein or Ratko Mladic will continue to use them. But users (along with manufacturers and dealers) can be hunted down and punished by an international court. If that happens just a few times, antipersonnel mines will go the way of mustard gas. I'll drink to that, and so will most veterans of foreign wars.

Mr. LEAHY. Mr. President, let me say one last time that we can ban landmines. We can ban landmines certainly within this century. We can ban them if the most powerful nation on Earth, the United States, takes the leadership role that it must in this. If we do what so many other countries have already done, and if we, instead of following them, step out ahead of them, we can ban these landmines once and for all. If we do, our men and women, when sent into harm's way, will be safer. Our humanitarian workers will be safer, and millions of children and innocent civilians around the world will become safer.

I yield the floor.

EXHIBIT 1

[From the New York Times, Apr. 3, 1996]

AN OPEN LETTER TO PRESIDENT CLINTON

DEAR MR. PRESIDENT: We understand that you have announced a United States goal of the eventual elimination of antipersonnel landmines. We take this to mean that you support a permanent and total international ban on the production, stockpiling, sale and use of this weapon.

We view such a ban as not only humane, but also militarily responsible.

The rationale for opposing antipersonnel landmines is that they are in a category similar to poison gas; they are hard to control and often have unintended harmful consequences (sometimes even for those who employ them). In addition, they are insidious in that their indiscriminate effects persist long after hostilities have ceased, continuing to cause casualties among innocent people, especially farmers and children.

We understand that: there are 100 million landmines deployed in the world. Their presence makes normal life impossible in scores of nations. It will take decades of slow, dangerous and painstaking work to remove these mines. The cost in dollars and human lives will be immense. Seventy people will be killed or maimed today, 500 this week, more than 2,000 this month, and more than 26,000 this year, because of landmines.

Given the wide range of weaponry available to military forces today, antipersonnel landmines are not essential. Thus, banning them would not undermine the military effectiveness or safety of our forces, nor those of other nations.

The proposed ban on antipersonnel landmines does not affect antitank mines, nor does it ban such normally command-detonated weapons as Claymore ''mines,'' leaving unimpaired the use of those undeniably militarily useful weapons.

Nor is the ban on antipersonnel landmines a slippery slope that would open the way to efforts to ban additional categories of weapons, since these mines are unique in their indiscriminate, harmful residual potential.

We agree with and endorse these views, and conclude that you as Commander-in-Chief could responsibly take the lead in efforts to achieve a total and permanent international ban on the production, stockpiling, sale and use of antipersonnel landmines. We strongly urge that you do so.

General David Jones (USAF; ret.), former Chairman, Joint Chiefs of Staff;
General John R. Galvin (US Army, ret.), former Supreme Allied Commander, Europe;
General H. Norman Schwarzkopf (US Army, ret.), Commander, Operation Desert Storm;
General William G.T. Tuttle, Jr. (US Army, ret.), former Commander, US Army Materiel Command;
General Volney F. Warner (US Army, ret.), former Commanding General, US Readiness Command;
General Frederick F. Woerner, Jr. (US Army, ret.), former Commander-in-Chief, US Southern Command;
Lieutenant General James Abrahamson (USAF, ret.), former Director, Strategic Defense Initiative Office;
Lieutenant General Henry E. Emerson (US Army, ret.), former Commander, XVIII Airborne Corps;
Lieutenant General Robert G. Gard, Jr. (US Army, ret.), former President, National Defense University, President, Monterey Institute of International Studies;
Lieutenant General James F. Hollingsworth (US Army, ret.), former I Corps (ROK/US Group);
Lieutenant General Harold G. Moore, Jr. (US Army, ret.), former Commanding General, 7th Infantry Division;
Lieutenant General Dave R. Palmer (US Army, ret.), former Commandant, US Military Academy, West Point;
Lieutenant General DeWitt C. Smith, Jr. (US Army, ret.), former Commandant, US Army War College;
Vice Admiral Jack Shanahan (USN, ret.), former Commander, US Second Fleet;
Brigadier General Douglas Kinnard (US Army, ret.), former Chief of Military History, US Army.

SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT

Mr. GRAMM. Mr. President, I have introduced The Sexual Offender Tracking and Identification Act of 1996 with Senators Biden, Hutchison, and Faircloth. I would like, this morning, to talk a little bit about this bill, its origins and what it seeks to do.

I begin by asking unanimous consent to have printed in the RECORD a letter of endorsement from the National Center for Missing and Exploited Children.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL CENTER FOR MISSING & EXPLOITED CHILDREN,
Arlington, VA, April 16, 1996.

To: Senator Phil Gramm.
From: Teresa Klingensmith, Manager, Legislative Affairs.
Date: April 16, 1996.
Re Necessity of Sexual Predators Tracking and Identification Act of 1996.

The benefit of a national sex offender registry network and database, such as the one envisioned in your bill, cannot be overstated. As we see the effects of the mandates contained in the Wetterling Act—presently 47 states have sex offender registry programs—we are made cognizant of the new obstacles to be tackled with regard to sex offender containment. It is time for the next steps contemplated but not attended to in Wetterling.

1. A registry network. Fifty individual state sex offender registries would be sufficient if no sex offender ever moved interstate. Unfortunately, that is certainly not the case. Indeed, these offenders tend to be particularly transient individuals, probably due to the need to conceal the darker side of their lives and seek out new victims. As these offenders move from state to state, they can easily get lost in the paper-shuffling from state to state. A central, federal database and verification system will insure that these individuals do not ''fall through the cracks'' as they move from state to state.

2. Community notification. Thirty states have enacted community notification laws, and more are being considered in the 1996 state sessions. These laws remain very popular, despite the current judicial debate surrounding them.[1] However, like sex offender registries, these laws are ineffective in the larger scope if offenders can evade them simply by moving across a state line. Already, I receive letters from offenders in prison requesting information about which states have notification programs and which do not. These offenders are not stupid; we must be as clever as they if we intend to protect our children. No current federal law suggests the passage of a community notification program as strongly as your legislation or provides the background on which to build such a national system. No current community notification program will be truly effective until all 50 states have relatively uniform programs; this bill the next step towards such coverage.

3. Release of information. Child molesters dedicate an enormous amount of energy obtaining legitimate access to children. This includes securing positions (if possible) in day care centers, child youth organizations, schools, community centers, etc. In recognition of this, states have responded by passing background screening laws requiring criminal background checks for those who have access/contact with children. Unfortunately, most of these checks stop at state lines. Without a national database of sex offenders and authorized access to that database, these background checks won't accomplish their true purpose. We strongly support your effort to provide such a database.

Sex offenders do not only victimize the women and children they attack; they victimize society as a whole. As a nation we have a depleted sense of security and trust as a result of these individuals. To combat these offenses and their long-term results requires a plan that addresses all the aspects of their behavior and strives to empower the community to protect itself and its children. NCMEC has long advocated a reasonable, responsible, long-range approach to containing sex offender recidivism. I believe your bill is a positive contribution to such a long-range plan and necessary to its development.

The inclusion on the FBI's Wanted Persons Index for unverifiable offenders is a clever and strong answer to a persistent question. Many offenders may be coerced into updating their registration information by the threat of inclusion on that list. It is a practical, no-nonsense solution.

We support your efforts and commend your interest in child protection.

Mr. GRAMM. Mr. President, let me begin with a tragic story, and then talk about a Texas law, what other States have done in the area of sexual predators, why what they are doing cannot work unless we do our part, and then outline what we are trying to do in this bill.

Three years ago, a 7-year-old girl named Ashley Estell went to a park in Plano, TX, which is an upscale suburb of Dallas, one of the finest communities in America, and certainly we would assume one of the safest. She went to the park that day to watch her brother play soccer. Ashley's brother played in the second of three games to be played that day and while her parents stayed to watch the final game, Ashley went to play on a swing set. Although there were 2,000 people in the park that day, this little girl was, nevertheless, abducted, raped, and brutally murdered.

The FBI stepped in to investigate the case, and asked parents who were there that day to turn in any video cassette recordings they might have taken of games on the playground. The FBI, using the 14 tapes that were turned in, was able to go back and identify a known sexual predator who had been there the day Ashley was abducted. They apprehended him, and after a change of venue to Midland, TX, he was convicted and sentenced to death. His record was a record that we read about every day in the newspaper—he had been previously convicted, had been sentenced to 10 years in prison, had gotten out in just 18 months, and then went to this park and abducted and murdered a little girl.

What shocked Plano, the whole metroplex and, to some degree, the entire country, was not just this tragic crime, but the fact that the FBI, in looking at these 14 tapes, identified not one, but two sexual predators who were there in the park on that day. It turned out that the referee of all three soccer games played that day was a convicted sexual predator, who had fled from North Carolina to Texas to avoid being sent to prison for 10 years.

One of the greatest tragedies was that the soccer league had no way of knowing who this person was and no way of checking his record. Further, there is no national database that can be used to check the records of anybody else who wants to be a scoutmaster for the Girl Scouts or the Boy Scouts, who wants to work for the Boys and Girls Club, or wants to be a Big Brother or Big Sister.

And so, in light of this terrible tragedy, Florence Shapiro, an outstanding young State senator in my State of Texas, wrote a series of bills called Ashley's laws, named after this little girl. These bills sought, among other things, to set up a statewide tracking system for sex offenders, and required a minimum mandatory sentence of life imprisonment without parole for a second sexual offense or for aggravated sexual assault.

Under the tracking system in Texas, before convicted sexual predators can be released from prison, they have to be photographed, fingerprinted, and have a file built on them. Then, when they leave prison, they have to register with law enforcement authorities in the town that they move into. The law enforcement authorities then notify the school system, print a notice in the newspaper, and make the data available to local civic organizations, local groups, and other groups where you have substantial concentrations of children. With this system, which is in place today, if somebody wants to be a scoutmaster in Plano, TX, the scouting council can go to the local police department and say, ''This person wants to be a scoutmaster. Can you look on your computer data base and see if there is a reason that we should be concerned about trusting young children to this person?'' This system has been set up in Texas, 46 other States have established similar programs, and I believe Texas' is a model system.

The problem is, since each State has its own individual program, when someone commits a sex crime in Texas and moves to Arizona, there is no mechanism to pick them up in Arizona. The same, obviously, is true if somebody commits a sex crime in Chicago, goes to prison, gets out, and then moves to College Station, TX. There simply is no mechanism to pick them up once they cross State lines.

Senator BIDEN, Senator HUTCHISON, Senator FAIRCLOTH, and I have offered a bill to change this by having the FBI set up, working with the States, a national data base on sexual predators. As the Presiding Officer knows, we are in the process of building a massive criminal data base which is expected to be on-line by the year 2000. This system will be the most comprehensive data base on criminals in the history of mankind. I was chairman of the Commerce, Justice, and State Department Appropriations Subcommittee last year when Florence Shapiro, our State senator, was writing her bill, and it struck me, in providing $88 million for this program, that this sexual predator effort is never going to work as long as sexual predators can move across State lines and escape the system. Needless to say, we are already beginning to get evidence which proves this. Even though most of these State laws are already in effect, it is becoming increasingly clear that exactly what you would expect happen has indeed happened; that is, sexual predators, in Texas and elsewhere, who are required to register when they move into a community are trying to escape this increased scrutiny. Although we do not have enough data yet to show this conclusively, I think it is increasingly clear that the interstate migration of convicted sexual predators has exploded as these convicts try to exploit the weakness of the current system.

What we are trying to do in this bill is to have the FBI set up a national data base in conjunction with those States that have registration laws, and set up a data base for the three States that have not yet acted in this area, in

[1] Even this judicial debate centers on specific aspects of these laws (i.e. retroactive application) rather than on the spirit of the community notification program. The basic theory of notification has withstood all challenges.

order to develop a national system that all States can participate in as partners. Under this system, any time a sexual predator is released from prison, we will have a comprehensive file on them, and wherever they move we will ensure that the local law enforcement authorities are notified. We will leave it up to the State and local officials as to how they want to use this information. Some States, like Texas, have very aggressive programs which provide for school notification, public notification, and a program through which volunteer civic organizations can use the data base to determine whether someone should be put in a position of trust with regard to children. We do not get into telling the States how to use the data base, we simply assure that they have access to a nationwide sexual offender registry.

Let me, in conclusion, provide an example of how this system might work once this bill is passed and the data base is operating. Let us say that in Tucson you had the principal of an elementary school call up the police chief and say, ''We have a strange guy hanging around our school, and maybe I am overreacting to this, but our janitor thinks he saw this guy looking into a bathroom window.'' What would happen with this system in place is that the police chief in Tucson could send a police officer out to the school, get a description of this individual, get any evidence there might be—a footprint, for example—and if they had a computer in the patrol car, they could actually put the data into the computer at that moment and ask the data base, ''Can you take this description and match it against any registered sexual predator within 25, 50, 100, or 1,000 miles of Tucson, AZ?'' The computer could then generate, for example, six people who meet this description, and produce color, digitized photographs of those individuals. These photos could then be immediately shown to the principal, to the kids, to the teachers, and to the janitor, and, hopefully, they could identify this person.

In my State, it is a felony for a person who has previously been convicted as a sexual predator against children to be within a certain distance of the school whether they are still on parole or not, and so in Texas the police could go out and arrest this person and put them back in jail before they could hurt someone.

It is important to note that sexual predators have a recidivism rate that is higher than any other known class of criminal activity. The probability that someone who is convicted of being a sexual predator, especially if it is a crime against a child, committing that crime again is estimated to be 10 times higher than the probability that an armed robber who is apprehended, convicted, and sent to prison will commit the act of armed robbery again. As a result, we have a special obligation to be vigilant in protecting society from sexual predators.

Finally, I see this bill as being a first step toward using the power of the information age to deny criminals the one thing they need to prey on society, and that is a dark corner to hide in. I believe that with the explosion of the information age, if we are willing to commit the resources to hire and train law enforcement officials, to build prisons, and to elect and appoint judges that are serious about protecting society, we have the ability to protect our children from people for whom the preponderance of the evidence shows that they are guilty. I think the power of the information age in denying criminals—in this case, sexual predators—a dark corner to hide in is going to give us the ability to have the safest society we have had in over half a century.

I want to be certain that we take this opportunity to achieve these goals and I hope my colleagues will look at this bill and will join us in this effort. We hope to see this bill become law this spring and do not know of any organized effort against it. The ACLU opposed similar provisions in my State, arguing that we were violating the right to privacy of people who had previously been convicted as being sexual predators. My response to this charge, however, is that you do not have to be on this list. If you are concerned about your privacy, do not molest our children. If you do not commit a sexual crime, then you will not lose your privacy. But if you do commit this kind of terrible crime, part of our response will be to take extraordinary procedures to protect society.

So I recommend this to my colleagues, I thank the Chair, and I yield the floor.

Mr. BIDEN. Yesterday, Senator GRAMM, Senator HUTCHISON, Senator FAIRCLOTH, and I introduced Senate bill 1675—legislation to strengthen and improve the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

The Jacob Wetterling Act requires States to enact laws to register and track the most violent, the most horrible—and least likely to be rehabilitated—criminals our Nation faces today. I refer to those criminals who attack our children and criminals who are sexually violent predators.

These criminals must be tracked. And local law enforcement must know when these criminals are in their communities. This was the reason I worked to include this important measure in the 1994 crime law. And I will also point out that almost all States have taken great strides to build an effective tracking system.

Now we seek to build upon this progress to meet three specific goals:

First, we must have a nationwide system that will help State and local law enforcement track these offenders as they move from State to State and will help by providing a backup system of tracking.

Second, while most States have established or are about to establish these systems, if any States fail to act, we cannot allow there to be a black hole where sexual predators can hide—and are then lost to all States. A nationwide system will track offenders if States do not maintain registration systems.

Third, we must ensure that the most serious sexual predators are required to remain registered with law enforcement officials for the rest of their lives.

All of these key goals will be met by this legislation. In addition, our bill will offer some improvements which are made possible by the nationwide system this bill will provide. For example, our bill will—

Require all offenders to verify their address on a regular basis by returning verification cards with their fingerprints.

Require that a nationwide warning is issued whenever an offender fails to verify their address or when an offender cannot be located.

Institute tough penalties for offenders who willfully fail to meet their obligations to register with the nationwide system in States where there is no registration and in cases of offenders who move from one State to another.

Notify law enforcement officials not only when an offender moves to their area, but also when an offender moves out of their neighborhood.

To offer just one of the practical problems a national data base will help local law enforcement address—Delaware law enforcement, because Delaware is so close to other States, will certainly need to know if a sexual predator lives just over the line in Pennsylvania. And only a national data base can provide this information.

To offer a real life example of why a nationwide system is needed—in Delaware, a sex offender was released last year. Fortunately, Delaware's offender registration law requires this offender—Freddy Marine—to be tracked by Delaware law enforcement. Since his release, Marine has moved to another State. The nationwide system established by this bill will help make sure that if Freddy Marine moves back to Delaware—our State law enforcement will know, and knowledge is the key to effective enforcement.

Let me also point out that our bill would still allow States the flexibility to decide when a community should be notified of the presence of a sexual offender, as State and local law enforcement is in the best position to decide when and how notification in their area is warranted. Frankly, our bill has erred on the side of registering many more offenders than may be necessary. Therefore, the specific decision to require community notification must be left to the State and local officials.

In summary, the sex offender tracking and identification bill is possible because States such as Delaware and Texas have done the hard work to build statewide registration systems. We

now seek to build a system where all movements of sexually violent and child offenders can be tracked and we will go a long way toward the day when none of these predators will fall between the cracks.

Mr. DORGAN. Mr. President, I ask unanimous consent to extend morning business time for 10 minutes so that I might speak in morning business.

The PRESIDING OFFICER (Mr. COVERDELL). Without objection, it is so ordered.

Mr. DORGAN. I say to the Senators who are handling the bill that when they come to the floor I will certainly immediately relinquish the floor.

Let me say to the Senator from Texas before he leaves the floor that I am interested in cosponsoring that piece of legislation. I met with a group of law enforcement officers recently in Dickinson, ND, in fact, last week. We talked about a wide range of subjects, including the triple ''i'' index, the interstate identification index, the criminal records base, and there are two things that are deficient. One is there are a great many criminal records dealing with the criminal history of someone who is below 18 years of age, someone who has committed a murder, a rape, armed robbery, and so on, that you cannot get at. If you inquire from a law office in Texas and this person had committed the act in South Dakota, North Dakota, or Nebraska, those records are expunged and withheld. So you do not have the complete criminal history.

The other thing that they talked about was this issue of sexual predators. It is fine for States to have the system, but, if they are not together and interlocked in this interstate identification system, somehow it does not respond to the way we want it to respond.

I listened to what the Senator from Texas had to say. I want to cosponsor the legislation and work with him and others. I think this makes a great deal of good sense.

Mr. GRAMM. I thank the Senator. Let me say we are looking at exactly the problem of at what point should a juvenile go on this database. It is clear to me that, in the society in which we live today, by the time many of these hardened criminals, these sexual predators, are adults, they have already committed many crimes and have established a life style which they are unlikely to break. Senator BIDEN and I are working on these kinds of problems, and we will happily put the Senator on as a cosponsor.

We would also be happy to try to incorporate into our bill any suggestions the Senator or his law enforcement officials might have.

We have a blueprint of what we want to do, but we are very open to try to improve it, and I thank the Senator.

Mr. DORGAN. I appreciate the Senator's remarks. I will cosponsor the legislation and be anxious to work with him on the juvenile crime issue.

LEGISLATIVE AGENDAS

Mr. DORGAN. Let me, Mr. President, just take a moment to describe what happened yesterday since the Senate went into recess and I was unable to speak about it.

There are stories in the press today which say that the majority leader pulled the bill on immigration and said that some were trying to hold the immigration bill hostage in the Senate yesterday.

That is not the case at all. It is simply not accurate. It is true that amendments were offered to the immigration bill. My amendment was offered yesterday that deals with a Social Security issue, but I indicated to the person managing the bill I would be willing to accept a 20- or 30-minute time agreement on my amendment. It was not a circumstance where my amendment was going to hold up the bill. There would have been a minimum wage amendment, but Senator KENNEDY indicated he was willing to accept a time agreement of perhaps an hour, perhaps a half-hour, on that minimum wage amendment. So no one could accurately describe that as holding any kind of a bill hostage.

I want to describe the circumstance we were in yesterday and why I had to offer the Social Security amendment. The majority leader has announced in the Senate that he intends to seek reconsideration of the constitutional amendment to balance the budget. He has the right to do that, and when he does it, as I understand the procedure, there will be no debate and no opportunity for an amendment. That is the procedure under which he will seek reconsideration.

As a result of that, those of us who care about an issue that is related to the constitutional amendment to balance the budget, namely the issue of using Social Security trust funds as part of the revenue to balance the budget, wanted to offer a sense-of-the-Senate resolution saying any constitutional amendment to balance the budget that is brought to the Senate floor should create a firewall between the Social Security trust funds and the operating revenues of the Federal Government.

Now, why is that important? Because if you do not do that, we will have nearly $700 billion of Social Security trust funds misused. They were supposed to have been collected to be saved for the baby boom generation when they retire. But instead, they will be used as revenues on the revenue side of the budget to show a lower budget deficit.

Some of us feel that is wrong. I know that yesterday it was charged, well, this is just politics. It is not just politics. It is an enormously important question that this Senate must address. So far it has addressed it in the wrong way.

The minimum wage, which was also scheduled to be offered as an amendment by Senator KENNEDY and some others, is an issue they have worked on for over a year. There was not any intention to hold the bill up but simply to say on behalf of those folks out there working on a minimum wage who have for 6 years not received any kind of an increase at all, they have been frozen for 6 years and have lost a half a dollar of their wage to inflation in terms of purchasing power, we will try to give you a slight increase in the minimum wage.

That is what the fight was about. It was not a fight to try to hold up the bill.

Now, the majority leader came to the floor and, apparently with great frustration, said, well, this Social Security amendment and others have nothing to do with the underlying bill.

The majority leader understands how the Senate works. He has been here for a long, long time. He came to the floor when we had family and medical leave in this Chamber and offered a gays in the military amendment that had nothing to do with the bill. It was because he wanted to offer his amendment dealing with gays in the military. It was completely extraneous. It was nonrelevant. But he did it because he felt it was important to do.

On the immigration bill yesterday, the only opportunity, it seemed to us, to be able to register on this issue of the misuse of the Social Security funds in a constitutional amendment to balance the budget, the only opportunity we would have had before the majority leader would bring up the vote on the constitutional amendment to balance the budget was to offer it before he did it, and so we used the first vehicle that came along.

It is not an attempt to frustrate the immigration bill. Much in the immigration bill I support, as do many of my colleagues. The immigration bill will pass the Senate, in my judgment, if the majority leader brings it back to the floor. But he is not going to be in a circumstance where he comes to the floor of the Senate and says: Here is our agenda, and you vote on our amendments and our agenda when we want to vote; and with respect to the things you care about, we are sorry but they do not count; they are irrelevant.

It is not the way the Senate works. And so we are not trying to hold up any piece of legislation. We very much want the Senate to register itself on a couple of important issues.

With respect to whether these issues are just politics, as a couple of people have suggested, I guess if we get to the point when we are talking about a minimum wage for millions of Americans who have not had an adjustment in the minimum wage for 6 years, if we get to the point where we say, well, that is just politics if we want to talk about the minimum wage, they have changed the definition of politics. If it is just politics when we want to talk about $700 billion of Social Security trust funds being misused to show a lower budget deficit, then they have changed

the definition of politics. That is not politics, in my judgment. It is what we ought to be discussing in the Senate.

My hope is that when we finish the antiterrorism bill, which I think will be moved out of the Senate with a yes vote, we will turn to the immigration bill, and we will deal with these amendments.

The fact is these amendments are not going to go away. I heard the majority leader and others say, well, those who offer these amendments simply want to cover their vote against the constitutional amendment.

We had two votes on the constitutional amendments last year. I voted for one, which was the right one, which did not misuse the Social Security trust funds, and I voted against the one that did misuse the Social Security trust funds. You cannot take money from workers' paychecks and say to them we promise this is dedicated for only one purpose; it goes into a trust fund; it is going to be saved for Social Security when we need it when the baby boomers retire, and then say, oh, by the way, we have changed our mind; the $71 billion this year that we collect above what we need for Social Security, we are going to use that to balance the Federal budget.

This is not a trust fund. The fund ought not to have the word ''trust'' in it if you are going to use it for other purposes, and it is not politics for us to start talking about some honesty in budgeting and protecting the Social Security trust funds for the days when this country is going to need them when the baby boomers retire.

There are plenty of issues we need to deal with in the Senate, and if every time we come to the floor of the Senate and talk about issues of substance, whether it is the Social Security trust funds or a constitutional amendment to balance the budget or for that matter the minimum wage, it is alleged somehow it is totally political, then I guess all of the activities of the Senate will be political this year. But some of us happen to think some of these issues ought to be dealt with, and those who think they will avoid votes in the coming months should understand we will come to the floor again and again and again, and it is not to play games. It is because it is serious business when you are talking about $700 billion in the Social Security trust funds, and it is also serious business when you are talking about folks who have worked on minimum wages for 6 years and have had no adjustment relative to inflation.

So, Mr. President, I understand we have the antiterrorism bill that will be coming to the floor this morning. I hope we make good progress on it. I think there is a consent agreement of some sort with respect to amendments. That bill ought to get out of the Senate soon. I will likely vote for it. Then I hope we can turn to immigration and deal with some of these issues.

I have watched what has happened in the Senate now for some long time, and I do not want people coming to the floor of the Senate and saying, well, we offer all of our amendments, any amendment, any time we want on any bill we want, but if you offer an amendment on minimum wage here, somehow you are playing politics.

That is not the way the Senate works. If one side is able to use legislation to advance the policies they want to advance, then the other side is going to do the same thing, and it ought not be a surprise to anybody. I just do not like to see stories in which we are told that somehow somebody yesterday was holding an immigration bill hostage. Both amendments that were to be offered to the immigration bill would have been subject to, and the authors of both amendments had said that they would agree to, very short time agreements. Nobody was holding anything hostage. People ought to know that.

Mr. President, I yield the floor, and I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION REFORM

Mr. CAMPBELL. Mr. President, I come to the floor today to make a few brief comments on the immigration proposals that we will be debating over the next few days. My first observation is to recognize the distinct set of issues that relate to and will be debated with respect to legal and illegal immigration. I commend the work of the Judiciary Committee for recognizing the merits of considering two separate bills rather than one package, and I strongly endorse the committee's position.

Mr. President, what I hear from many of my constituents on the issue of immigration is the growing costs absorbed by the system, that is Federal, State, county, and local governments, to continue to provide public services and benefits to the immigrant community. And recently, in my home State of Colorado, the increasing number of illegal immigrants, in particular, has been a growing concern.

Further, recent statistics, compiled by the Congressional Research Service and other recent studies, clearly document the enormous financial burden placed on Government entities to provide services to the immigrant community. It is my belief that without significant changes to curb the flow of illegal immigration, and to revisit current benefits bestowed to legal and illegal immigrants, this financial burden will continue to increase dramatically.

For example, a recent study out of Rice University, concluded that immigration costs to the United States exceeded $50 billion in 1994 alone. While the conclusion reached in this study are subject to debate, there is nonetheless a compelling need for significant change.

With over 4 million illegal aliens currently in this country, and over 300,000 arriving annually, the increasing burdens on our society demand our attention.

I would like to point out that in my home State of Colorado, for the 5-month period from November 1995 through March 1996, the Immigration and Naturalization Service [INS], contacted a total of 3,486 illegals. Of those, 2,014 were deported, while 1,472 were let go.

Mr. President, I would like to bring your attention to a newspaper article from the Denver Post dated April 12, 1996, that reads in part, ''Last week, a van filled with 29 illegal immigrants was stopped on Interstate 70 in Grand Junction, but a lack of detention funds kept the INS from arresting them or their driver.''

These incidents come just days after the INS Operation Mountain Passes ended. As a result of this program, designed to specifically crack down on smugglers, roughly 1,300 illegal immigrants were stopped, arrested, and deported. However, and not so ironic, when the money ran out this program ended.

Again as recently as Monday, in Colorado Springs, CO, a van containing 13 suspected illegal immigrants was stopped by the Colorado State Patrol. Unfortunately, for some unknown reason the INS could not respond. Because the State patrol does not have the authority to arrest illegal immigrants, these individuals were released. This represents the second time in less than a week that suspected illegal immigrants have been released because of inadequate INS response capability.

As a result of changes in the dynamics of illegal immigration migration Colorado has now become a major corridor for illegal immigrants migrating east. Without the assistance of increased law enforcement efforts, such as Operation Mountain Passes, I am concerned that these successful efforts may be curtailed.

While I support efforts to increase law enforcement efforts to curb illegal immigration, both at the border and to other impacted States, I do have concerns with provisions adopted in the House measure that may be considered in this Chamber.

Primarily, I am concerned with the provisions adopted in the House bill that seek to deny public education to illegal immigrant children as a means of reducing the flow of illegal immigrants into this country. Congress should not be so overzealous in its endeavor to reduce the influx of illegal aliens that we adopt stopgap measures that are actually destined to increase the demands on public funding by expanding the number of America's undereducated and unemployed.

Any provision that seeks to deny children access to education will place

a massive burden upon our already overburdened community services, schools, and local law enforcement agencies. At a time when local and State leaders are making strenuous efforts to keep kids off the streets and in school, education should be employed as an important tool to help solve America's problems, not used as a weapon against its most helpless victims.

Mr. President, reducing the flow of illegal immigrants must first focus upon measures that will actually restrict and hopefully prevent illegal immigrants from entering this country. I support provisions in S. 1664, the Immigration Control and Financial Responsibility Act of 1996, that provides for more border patrol agents, as well as the addition of 300 full-time Immigration and Naturalization Service investigators for each of the next 3 fiscal years. I believe these provisions will provide a much needed boost to the understaffed and overworked agencies that we entrust to keep illegal aliens out of this country. Our focus, again, should be on the prevention and control of illegal immigration, rather than on retribution for illegally immigrating to this country.

Each of my colleagues brings a certain perspective to the immigration debate. I have listened to much of the debate and realized that the great lot of us are products of immigrant families. Personally, I believe I have unique perspective to add to the debate.

Over 60 years ago, my mother legally immigrated from Portugal. Like many people during that time she wanted the opportunity to make a better life for herself and an opportunity to succeed, but to do so in a law abiding way. While on the other hand, my father comes from people, the Northern Cheyenne people, who can document their ties to this land, to this continent for hundreds of years prior to the first explorers of this continent. If I were to take his advice, and the advice of many native American people, they might suggest that we all pack our bags and go home.

Obviously reality dictates real and pragmatic solutions. However, I might also observe that it seems ironic that if this same debate were to take place 100 years ago many of my colleagues, including myself, might not be here today.

In closing, I look forward to the debate on these immigration proposals and hope that this Chamber can adopt fair and effective immigration reform. Let us remember that, with few exceptions, we are all ancestors of immigrants.

Mr. President, I ask unanimous consent that the text of an article that appeared in the Colorado Springs Gazette Telegraph, on immigration, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SUSPECTED ILLEGAL ALIENS LET GO AFTER INS NO-SHOW

(By Teresa Owen-Cooper)

Thirteen suspected illegal immigrants from Mexico were detained briefly in Colorado Springs on Monday night but released after federal authorities couldn't respond to take them into custody, according to the Colorado State Patrol.

The 12 men and one woman from Oaxaca, Mexico, on their way to Tennessee to pick fruit, were stopped on Interstate 25 near U.S. Highway 24 about 7 p.m. after their van was weaving, said state patrol trooper Chuck Coffrin.

Coffrin found 13 people inside the 1972 Ford panel van, and none were able to produce documentation that they were U.S. citizens, officials said.

State patrol officials called the U.S. Immigration and Naturalization Service, who couldn't respond, Coffrin said, adding that the INS gave no indication why.

Because the state patrol doesn't have authority to arrest illegal immigrants, the 13 people were released, Coffrin said.

It was the second time in less than a week that the state patrol has stopped a van carrying suspected illegal immigrants from Mexico and been forced to release them because the INS didn't take action.

On Thursday, the state patrol stopped a van, carrying 19 people, on I–25 about 15 miles south of Colorado Springs, because their van was weaving, according to the state patrol.

GULF WAR SYMPTOMS

Mr. CAMPBELL. Mr. President, ever since the conclusion of the gulf war, returning veterans have complained about a variety of symptoms including dizziness, nausea, loss of equilibrium, and depression.

All of us have visited veterans in our States. And through a series of hearings, those of us on the Veterans' Affairs Committee have been dismayed by the steadfast denial on the part of the Pentagon and the Department of Defense to acknowledge these brave men and women are suffering the after effects of all airborne or waterborne agent or agents that have caused their sickness.

As late as this week, Mr. President, the Pentagon issued a statement saying that after spending $80 million of taxpayer money, they found no evidence of sickness-inducing agents during the gulf war. Kind of sounds like Vietnam and agent orange all over again.

Well, lo and behold, Mr. President, thanks to an extensive study done by the University of Texas through a grant given by Ross Perot, those complaints from our men and women in uniform appear to be true, and the culprit was a combination of three agents acting in concert with each other. One agent was a common pesticide. Last night the Pentagon, somewhat sheepishly admitted their mistake.

My only questions are these, Mr. President. One, what the heck did they study with the $80 million? And two, if they are that incompetent they must be in an unmendable state of denial in helping our returning veterans.

Hooray for the University of Texas—boo on the Pentagon.

TRIBUTE TO CHINA-BURMA-INDIA VETERANS ASSOCIATION OF NEVADA

Mr. BRYAN. Mr. President, I rise today to honor the China-Burma-India Veterans Association [CBIVA] of Nevada. These veterans played a decisive role in World War II. The China-Burma-India Veterans were responsible for driving the Japanese out of the treacherous Burma jungles and for building a road from Burma through the Himalayas to China, which was originally called the Burma Road. The China-Burma-India Veterans also flew the most famous of the B–29 airplanes, brought the air war to Japan and its occupied territories and ended the war with the historic atom bombing of mainland Japan.

The China-Burma-India Association was established in 1948 in Milwaukee, WI and is now a nonprofit organization of approximately 7,000 veterans. In Las Vegas, a group of the brave and courageous veterans has established a chapter of their own called the Silver State Basha No. 133 with Eugene Henkin as their current commander. The China-Burma-India Veterans Association, Silver State Basha No. 133, keeps their veterans in touch by sending out more than 200 newsletters to China-Burma-India Veterans of Las Vegas and surrounding communities.

The Silver State Basha No. 133 is an example of the many fine men and women in our country who had the courage, sacrifice, and devotion to serve in World War II. On April 21–23, the China-Burma-India Veterans Association World War II will hold its western area reunion in Las Vegas at the Rio Hotel and Casino. I am pleased to recognize this group and would like to wish the China-Burma-India Veterans Association best wishes on a successful reunion.

TRIBUTE TO JOHN O. HEMPERLEY

Mr. HATFIELD. Mr. President, I rise today to pay tribute to John O. Hemperley, the Budget Officer of the Library of Congress, who passed away last Saturday.

Members and staff of the Appropriations Committee rely heavily on the expertise, efficiency, and responsiveness of agency budget officers. Throughout our Federal Government there is a corps of budget professionals who set the example of dedicated public service. John Hemperley embodied the highest standards of his profession. He possessed a knowledge and understanding of the Library's budget that was unsurpassed, and he was unfailingly responsive in sharing that knowledge with our committee and its staff. He was fierce in his defense of the Library's mission and the budget funding that mission, but he never misrepresented the facts, and he always

faithfully executed the budget enacted by the Congress.

The Library of Congress is a unique and treasured institution. It is the greatest repository of knowledge in the history of the world, and for 196 years the Congress of the United States has supported and nurtured its development. Today the Library faces the challenge of providing new electronic services to all its constituent groups while maintaining its traditional services to the Congress and the Nation, all in a time of severe fiscal constraint.

John O. Hemperley was a unique and treasured individual. For the past 23 years, he supported and nurtured the Library of Congress in its relationship with the Committee on Appropriations. He will be sorely missed, not only by those who knew and loved him here in the Senate and in the Library, but by all those who may never have known him but who benefit daily from the enormous resources the Library provides. The challenges the Library faces will be more daunting without him.

Mr. President, I know I speak for Senator MACK, the chairman of our Legislative Branch Appropriations Subcommittee, and for all other members of the Appropriations Committee, and our staff, in expressing our great sorrow and extending sincere condolences to John's wife, Bess Hemperley, their children, and grandchildren. And may John rest in peace with God.

CHANGE OF VOTE

Mr. MOYNIHAN. Mr. President, on rollcall vote 50, I voted yea. My intention was to vote nay. I ask unanimous consent that I be permitted to change my vote which in no way would change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, I have mentioned many times that memorable evening in 1972 when the television networks reported that I had won the Senate race in North Carolina.

At first, I was stunned because I had never been confident that I would be the first Republican in history to be elected to the U.S. Senate by the people of North Carolina. When I got over that, I made a commitment to myself that I would never fail to see a young person, or a group of young people, who wanted to see me.

I have kept that commitment and it has proved enormously meaningful to me because I have been inspired by the estimated 60,000 young people with whom I have visited during the 23 years I have been in the Senate.

A large percentage of them have been concerned about the total Federal debt which recently exceeded $5 trillion. Of course, Congress is responsible for creating this monstrous debt which coming generations will have to pay.

Mr. President, the young people and I almost always discuss the fact that under the U.S. Constitution, no President can spend a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That is why I began making these daily reports to the Senate on February 25, 1992. I decided that it was important that a daily record be made of the precise size of the Federal debt which, at the close of business yesterday, Tuesday, April 16, stood at $5,142,250,889,027.95. This amounts to $19,430.38 for every man, woman, and child in America on a per capita basis.

The increase in the national debt since my report yesterday—which identified the total Federal debt as of close of business on Monday, April 15, 1996—shows an increase of more than two billion dollars $2,239,481,250.00, to be exact. That 1-day increase is enough to match the money needed by approximately 332,070 students to pay their college tuitions for 4 years.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the conference report accompanying S. 735, which the clerk will report.

The assistant legislative clerk read as follows:

A conference report to accompany S. 735, an act to prevent and punish acts of terrorism and for other purposes.

The Senate resumed the consideration of the conference report.

MOTION TO RECOMMIT

Mr. LEAHY. Mr. President, I move to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on striking the text of section 414 (relating to summary exclusion), section 422 (relating to modification of asylum procedures) and section 423 (relating to preclusion of judicial review) from the conference substitute.

The PRESIDING OFFICER. There are 30 minutes on the motion, to be equally divided.

Who yields time?

Mr. LEAHY. Mr. President, I yield myself 6 minutes.

Mr. President, I will ask for the yeas and nays on this at the appropriate time but, I understand that the distinguished chairman of the committee is on his way to the floor. I would not make such a request until he was on the floor.

I am not taking this action lightly. I understand there is a real concern on motions to recommit, but this is a very, very serious matter.

I understand the symbolism of trying to have this conference report adopted by the House on the 1-year anniversary of the terrible bombing of the Federal building in Oklahoma City and, for that matter, the 3-year anniversary of the tragic end of the siege near Waco. It is one thing to say we want to schedule a resolution or sense of the Congress to coincide with a memorial day but here we are talking about a very significant piece of legislation. While I think that all of us abhor what happened in Oklahoma—certainly, no sane American could take any pleasure in what happened in the tragedy in Oklahoma City—we also have a responsibility as U.S. Senators, no matter which party we belong to, to pass the best law we can. After all, that is what the American people expect.

The vast majority of Americans are opposed to terrorism, terrorism of any sort, and they assume that their elected officials, both Republicans and Democrats, are going to pass good antiterrorism legislation. If it takes a day or two more to get it right, then let us take the day or two more. We are doing this for a nation of 250 million Americans, a very powerful nation, threatened by terrorism.

The Senate passed S. 735 on June 6, 1995, almost a year ago. The House only considered its version last month. The conference committee apparently met a couple of evenings ago, and we were handed the conference report yesterday with instructions to pass it post haste. Having seen almost 10 months elapse since the Senate passed this bill, I hope we take time to at least to read the conference report. And, I dare suggest, there are not five Senators in here who have even read the conference report or have the foggiest notion of what it is they are voting on.

This is what we are talking about. We are talking about a bill being rushed through here about antiterrorism, because we are all against terrorists. But I am willing to bet my farm in Middlesex, VT, you are not going to find 5 to 10 Senators in this body who have read every word of this conference report.

In particular, my motion to recommit concerns profound changes to our asylum process that were not previously considered by the Senate in our deliberations on antiterrorism last year. The provisions I am objecting to have nothing to do with preventing terrorism. That is one reason why they were not in the antiterrorism bill that we considered and passed last summer. These provisions were added in the conference.

They do not have to do with terrorism. I am asking only to strike sections 414, 422, and 423. These are general immigration matters. They should be in the immigration bill. They should not be in this antiterrorism bill.

I tried to amend these provisions during the Judiciary Committee consideration of the immigration bill. I failed

on a tie vote. I circulated a ''Dear Colleague'' earlier this week, making clear my intention to try to change this. These provisions are bad policy. They are going to make bad law, and they are put in here for the first time in a conference report.

I disagree as well with the habeas corpus sections of the conference report, but at least we had the opportunity to debate and amend those provisions. The asylum rewrite was done in the dark of the night and it is being forced on us today. I think that is wrong.

Look no further than the front page of the New York Times on Monday. You see the most recent example of why we must not adopt the summary exclusion provision in the bill. There is an article on the case of Fauziya Kasinga and her flight from Togo to avoid female genital mutilation. She has sought for 2 years to find sanctuary in this country, only to be detained, tear-gassed, beaten, isolated and abused—not in some distant land, but the United States of America. The case has outraged women and men all over this country.

What you may not know is that the conference report that we have before us would summarily exclude Ms. Kasinga from ever having made an asylum claim, a claim that I hope, based on the reported facts, is going to be granted without her enduring more suffering. You see she traveled from Germany coming to America, and traveled on a false British passport in order to escape mutilation in Togo.

Under the legislation before us, she would be out. ''Tough. Go back and get mutilated. We do not care. We have a law—that none of us ever saw, none of us ever debated, none of us ever spent time on—that allows for your summary exclusion. You are out.''

Fidel Castro's daughter is another recent example of a refugee who came here using a disguise and phony Spanish passport to seek asylum. She came through Spain. Under the provisions of this bill, she might have been turned away at the border after a summary interview by a low-level immigration officer. We all know that there are political reasons why Fidel Castro's daughter should be granted asylum. Under the provisions of the conference report before us, slipped into the bill in the middle of the night, are barriers that could make that impossible.

I yield myself 2 more minutes.

In my ''Dear Colleague'' letter on my proposed amendment to these sections in the immigration bill and in the additional views I filed with the committee report on the immigration bill I also recall victims of the Holocaust and their use of false identification provided by the brave diplomats Raoul Wallenberg and Chiune Sugihara during World War II. Think of Oskar Schindler, think of ''Schindler's List.'' These are the kind of things that we need to consider before adopting this conference report.

My concern is not to defend alien smuggling or false documentation or terrorists, but to acknowledge that there are some circumstances and oppressive regimes in the world where, if you are going to escape, you may well need to rely on false papers.

It would be ironic if we were to pass these provisions on an antiterrorism bill that would prohibit victims of terror, torture, and oppression around the world from seeking refuge in this, the world's greatest democracy.

I hope that the United States will not abandon its historic role as a refuge for the oppressed and persecuted. Our country is a beacon of hope and freedom, let it not be extinguished. Let us not abandon our leadership role in international human rights. Let us not abandon the world's true refugees, let us not restrict the due process that protects the people who look to us for asylum. Unfortunately, the impact of the provisions in this bill would be to deny refugees any opportunity to claim political asylum and would, instead, summarily exclude them from the United States and send them back to their persecutors without a hearing, without due process protections, without assistance to help them describe their plight and without judicial review of any kind.

Sections 421 and 422 of the conference report prohibit an asylum claim by refugees who enter this country with false identification. I could understand that we might want to consider as potentially relevant factors to an asylum claim that the refugee arrived with false documents and the route that the refugee traveled to get here. But those factors should not be dispositive. The examples to which I have previously alluded indicate that there are times when the use of false documentation is not something that we would want to punish. I fear that the bill goes too far and sends the wrong signal by putting the burden on the refugee, without counsel and in a summary proceeding, to establish that the person is the exception and to create a clear record of ''credible fear'' and that it was necessary to present the false document to depart from the persecuting country.

The Committee to Preserve Asylum has sent each of us a letter outlining the ways in which similar provisions in the immigration bill would harm human rights and endanger refugees. In their April 8 letter supporting the Leahy amendment they outline cases in which these provisions would have been disastrous.

The U.N. High Commissioner for Refugees sent our chairman a letter dated March 6 objecting to these provisions as inconsistent with the 1967 Protocol Relating to the Status of Refugees and remains critical of the bill.

The asylum process was reorganized and reformed in January 1994. The bill fails to take these changes into account. In fact, in 1995 asylum claims decreased greatly and were being timely processed. Only 20 percent were granted. Thus, the bill's provisions are a bad solution in search of a problem. The INS and Department of Justice report that they have matters in hand.

The Department of Justice counsels that we should allow immigration judges rather than asylum officers to make these determinations. Under the circumstances, I believe that we have moved too far too fast and allowed a few cases from the distant past to create bad law.

The asylum provisions in the bill would place undue burdens on unsophisticated refugees who are truly in need of sanctuary but may not be able to explain their situation to an overworked asylum officer. The bill would establish summary exclusion procedures and invest low-level immigration officers with unprecedented authority to deport refugees without allowing them a fair opportunity to establish a valid claim to asylum. Even before being permitted to apply for asylum, refugees who flee persecution without valid documents, would be met with a series of procedural hurdles virtually impossible to understand or overcome.

This is a radical departure from current procedures that afford an asylum hearing before an immigration judge during which an applicant may be represented by counsel, may cross-examined and present witnesses, and after which review is available by the Board of Immigration Appeals. Such hearings have been vitally important to refugees who may face torture, imprisonment or death as a result of an initial, erroneous decision by an INS official. Indeed, human rights organizations have documented a number of cases of people who were ultimately granted political asylum by immigration judges after the INS denied their release from INS detention for not meeting a ''credible fear'' standard. Under the summary screening proposed in the bill conference report, these refugees would have been sent back to their persecutors without an opportunity for a hearing.

Under international law, an individual may be denied an opportunity to prove an asylum claim only if the claim is ''manifestly unfounded.'' This bill would establish a summary screening mechanism that utilizes a ''credible fear'' standard without meaning or precedent in international law. These summary exclusion provisions have been criticized by international human rights organizations and the United Nations High Commissioner for Refugees.

Furthermore, the proposed legislation would deny the Federal courts their historic role in overseeing the implementation of our immigration laws and review of individual administrative decisions. The bill would allow no judicial review whether a person is actually excludable. These proposals thereby portent a fundamental change in the role of our coordinate branches of Government and a dangerous precedent.

Besides being fundamentally unfair to a traumatized and fatigued refugee, who would be allowed no assistance and no interpreter, the proposed summary screening process would impose a burdensome and costly diversion of INS resources. In 1995 for example, only 3,287 asylum seekers arrived without valid documents—hardly the tens of thousands purported to justify these changes. The bill would require that a phalanx of specially trained asylum officers be created and posted at airports, sea ports and other ports of entry across the country to be available to conduct summary screening at the border. There is simply no need to divert these resources in this way when the asylum process has already been brought under control.

There are no exigent circumstances that require this Nation to turn its back on its traditional role as a refuge from oppression and to resort to summary exclusion processes. Neither the Department of Justice nor the INS support these provisions or believe them necessary.

I urge my colleagues to reject this gutting of our asylum laws and support the motion to recommit.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it not be charged to my time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, regarding the motion to recommit the conference report by the distinguished Senator from Vermont, now, look, this bill is a tough bipartisan measure. Stated simply, it is a landmark piece of legislation. My colleagues on the other side of the aisle know it. We have crafted a bill that puts the Nation's interests above partisan politics.

Some of my colleagues however have criticized this bill for not being tough enough on terrorists. In truth, many oppose this bill because it is too tough on vicious, convicted murderers—not my friend from Vermont, but others. My colleagues are aware that this motion to recommit will not improve the bill. Instead, if it passes it will scuttle the antiterrorism bill. In other words, it will kill it.

Accordingly, on behalf of Senator DOLE and myself, I move to table the pending motion and ask for the yeas and nays.

Mr. LEAHY. Mr. President, would the Senator withhold just a moment?

Mr. HATCH. I will be happy to withhold.

Mr. LEAHY. Mr. President, as I understand it, we are under a time agreement. Such a motion would not be in order until—or at least a vote on such a motion would not be in order until all time is either used or yielded back. Am I correct?

Mr. HATCH. I thought maybe the Senator had used his time.

I withdraw my request.

The PRESIDING OFFICER. The motion would not be in order until the time is used or yielded back.

Mr. LEAHY. If the Senator asks unanimous consent to make his motion to get the yeas and nays on it now, to be done at the expiration of time or yielding back——

Mr. HATCH. We can wait until then.

Mr. LEAHY. Mr. President, would the Senator yield further, on my time?

Mr. HATCH. I certainly do.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that a letter from the Committee to Preserve Asylum and various attachments in support of my amendment, signed by the American Friends Service Committee, the American Jewish Committee, Amnesty International, Associated Catholic Charities of New Orleans, Jesuit Social Ministries, Jewish Federation of Metropolitan Chicago, Indian Law Resource Center, and a number of others in support of my amendment be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE TO PRESERVE ASYLUM,
Washington, DC, April 8, 1996.

Hon. PATRICK J. LEAHY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: We are an ad hoc coalition of religious groups, human rights organizations, concerned physicians, and immigration and civil rights advocates that have come together to oppose the new bars to applying for asylum contained in S. 269.

The right to seek asylum is an internationally recognized human right, incorporated into U.S. law by Congress in the 1980 Refugee Act. It protects individuals fleeing persecution on account of race, religion, nationality, political opinion, or membership in a particular social group. Each year the U.S. grants asylum to about 8,000 people, less than 1% of legal immigrants. The new bars to asylum contained in S. 269, the Immigration Control and Financial Responsibility Act, would seriously undermine human rights protections for these bona fide refugees.

The new bars to asylum, found in sections 133 and 193 of the bill, would give low level immigration officers the authority to exclude and deport without a fair hearing refugees who were forced to flee persecution without valid travel documents. For reasons illustrated in the attached documents, this section would effectively deny asylum to many human rights victims. It will also cost more money. Senator Leahy will offer an amendment on the Senate floor that will preserve procedural protections for people escaping religious and political persecution.

We urge you to vote for the Leahy amendment.

Sincerely yours,
American Civil Liberties Union.
American Friends Service Committee.
American Jewish Committee.
Amigos de los Sobrevivientes.
Amnesty International.
Associated Catholic Charities of New Orleans.
Asylum and Refugee Rights Law Project, Washington Lawyers' Committee for Civil Rights and Urban Affairs.
Ayuda, Inc., Washington, DC.
Center for Immigrants Rights, Inc.
Central American Resource Center—CARECEN of Washington, DC.
Central America Political Asylum Project, American Friends Service Committee, Miami, FL.
Church World Services Immigration and Refugee Program.
Columban Fathers' Justice & Peace Office.
Comité Hispano de Virginia.
Committee for Humanitarian Assistance to Iranian Refugees.
Committee to Protect Journalists.
Council of Jewish Federations.
Dominican Sisters of San Rafael, CA.
El Centro Hispanoamericano.
FIRN, Inc. (Foreign-born Information and Referral Network).
Friends Committee on National Legislation.
Heartland Alliance for Human Needs & Human Rights.
Hebrew Immigrant Aid Society.
Hogar Hispano.
Illinois Coalition for Immigrant and Refugee Protection.
Immigrant and Refugee Services of America.
Immigrant Legal Resource Center.
Indian Law Resource Center.
International Institute of Boston.
International Institute of Los Angeles.
Jesuit Social Ministries.
Jewish Federation of Metropolitan Chicago.
Las Americas Refugee Asylum Project.
Lawyers Committee for Human Rights.
Lutheran Immigration and Refugee Service.
Marjorie Kovler Center for the Treatment of Survivors of Torture.
Mennonite Central Committee.
Minnesota Advocates for Human Rights.
National Asian Pacific American Legal Consortium.
Network: A National Catholic Social Justice Lobby.
North Texas Immigration Coalition.
Northwest Immigrant Rights Project.
Peace Workers.
Physicians for Human Rights.
Political Asylum/Immigration Representation Project, Boston College Law School.
Proyecto Adelante.
Proyecto San Pablo.
Robert F. Kennedy Memorial Center for Human Rights.
Sponsors Organized to Assist Refugees, OR.
Union of Council of Soviet Jews.
U.S. Committee for Refugees.
Vietnamese Association of Illinois.
VIVE, Inc., An Organization for World Refugees.

THE NEW BARS TO ASYLUM WOULD RETURN HUMAN RIGHTS VICTIMS TO FURTHER PERSECUTION

VOTE FOR THE LEAHY AMENDMENT

Sections 133 and 193 of S. 269, the Immigration Control and Financial Responsibility Act, would give low-level immigration officers the authority to deport back to their persecutors refugees who were forced to flee persecution without valid travel documents. The new bars to asylum would punish people whose only means of fleeing repressive governments is by using invalid travel documents.

Many true refugees are forced to flee persecution without valid travel documents either

because they do not have time to acquire them or because applying for them would threaten their lives.

Under current law, a person who arrives in the United States without valid travel documents and fears persecution in his or her home country may go before an immigration judge and prove eligibility for asylum. The asylum seeker may be represented at the hearing at no cost to the government.

The new bars to asylum would preclude such a person from even applying for asylum until he or she has proven that he or she has a ''credible fear'' of persecution and used the invalid travel documents to flee directly from a country where there is a ''significant danger'' of being returned to persecution. This all may have to be proven immediately after a stressful journey, and without the assistance of counsel or an interpreter, and without the involvement of any judicial or quasi-judicial officer.

The new bars and summary procedures are problematic for several reasons.

A ''false papers'' rule would harm human rights victims. By definition, asylum seekers frequently fear persecution by the government of their home country—the same government that issues travel documents and checks identity papers and exit permits at the airports and border crossings. It should be recalled that the United States has long honored Raoul Wallenberg, who saved countless lives during the Holocaust by issuing unofficial travel documents so that refugees could flee further persecution.

Meritorious asylum seekers would be returned to persecution. The INS has made serious errors while trying to apply the ''credible fear'' test. Under current law, asylum seekers who arrive in the U.S. without valid travel documents are detained pending their hearing unless they prove a ''credible fear'' of persecution in their home country. Human rights organizations have documented many cases in which people were denied parole under this standard, but later were granted asylum at their hearing before an immigration judge. Under the new bars to asylum, they would have been returned to persecution. A summary of some of these case studies is attached.

The Department of Justice opposes the new bars to asylum. Deputy Attorney General Jamie Gorelick wrote in her February 14 letter to Judiciary Committee Chairman Orrin G. Hatch that the Justice Department opposes sections 133/193, noting that ''Absent smuggling or an extraordinary migration situation, we can handle asylum applications for excludable aliens under our regular procedures.''

The new bars would deny protection to refugees who had to change planes on route to the United States. Before being able to apply for asylum, a refugee who used false documents would have to prove that they were needed to leave her country or to transit through another country. This requirement would prejudice both asylum seekers who flee countries that do not have direct carrier routes to the U.S. and those who must travel over land through countries that do not have asylum laws, that may be friendly with the government they are fleeing, or that are hostile to people of their background or nationality. Refugees from Asian and African countries in particular face this situation.

The new bars to asylum are inconsistent with U.s. obligations under international law and will inevitably lead to errors. The new bars lack the minimal procedural safeguards to prevent the mistaken return of a genuine refugee to certain persecution. The UNHCR ''fears that many bona fide refugees will be returned to countries where their lives or freedom will be threatened'' if the new bars to asylum become law. (Letter to Sen. Hatch, Chairman Judiciary Cmte, March 6, 1996).

VOTE FOR THE LEAHY AMENDMENT

Bob, a student at the University of Khartoum in Sudan, was an active member of the Democratic Unionist Party, an anti-government organization. After participating in a peaceful student protest, he was arrested by the Sudanese government. He was detained in a 6 by 11 foot cell with 10 other prisoners for 2 months. During his imprisonment, he was repeatedly interrogated and tortured—he was hung by his hands and feet, beaten and electrically shocked. As a result of the torture, his elbows are permanently deformed. He remained active in the democratic movement after his release from prison. Then, as he was walking to a democratic union meeting, he was again arrested and imprisoned. A few months later, while he was still in prison, he suffered a nervous breakdown because of the torture he suffered. He was transferred to a hospital, but remained under arrest. Wearing a nurse's uniform that his mother had smuggled into the hospital, Bob escaped from imprisonment.

Bob's colleagues from the democratic union smuggled him onto a freighter bound for Germany. In Germany, he borrowed another person's ID card to leave the ship. Knowing that the anti-immigration and NeoNazi movement in Germany had heightened and that it would be impossible to receive asylum there, Bob flew from Germany to the United States. He arrived without a passport. When he exited the plane, he immediately told the INS that he wanted to apply for asylum. He was placed in detention. Bob was not released from detention because the INS interviewer determined he did not have a ''credible fear'' of persecution. He was granted asylum by an immigration judge.

Alan, an Indian national, had been persecuted in Kashmir because of his religion. On several occasions, he and his family members were imprisoned and tortured by the Indian government. In July 1994 when the military police sought to detain him, he evaded arrest. A few months later his family's home was bombed.

Fearing for his life, Alan fled to the United States using a false passport. He told the INS he wanted asylum immediately. He explained to the INS officials that he and his family had been persecuted by the Indian government. The INS officers at the airport did not think he was credible. The officials verbally abused Alan and denied him food and water until he was brought to a detention center the next day. Alan was not released from detention because the INS did not think he had a credible fear of persecution even though he presented the INS with reports about religious persecution in Kashmir. Alan was later granted asylum by an immigration judge.

Sam, a Nigerian national, was an active member of a pro-democracy organization that was determined to ensure democratic elections in Nigeria. Shortly before the elections, the leader of the democracy organization was found murdered, and several members were arrested and subsequently disappeared. The State Secret Service went to Sam's house on election day searching for him. When Sam learned that the secret service was searching for him, he immediately went into hiding, afraid that if they found him, he too would ''disappear'' as his colleagues had.

Sam fled to the United States right out of hiding. He changed planes in Amsterdam. He traveled with a false U.S. passport. He was afraid that the Nigerian government would arrest him if he tried to leave the country with his own identification papers. When he arrived in the United States, he immediately told the INS that he wanted asylum. He was placed in detention. The INS interviewed him to determine whether he had a credible fear of persecution; the INS concluded that he did not. He was granted asylum by a federal court.

Mr. LEAHY. Mr. President, I also ask unanimous consent that a letter from the U.N. High Commissioner for Refugees in support be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED NATIONS,
HIGH COMMISSIONER FOR REFUGEES,
Washington, DC, March 19, 1996.

Re Special Exclusion Provisions of S. 269.

Hon. PATRICK LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: I wish to express UNHCR's sincere appreciation for your efforts during the 14 March Judiciary Committee mark-up session to remove the special exclusion provisions of S. 269. These provisions, found in Sections 133, 141 and 193 of the bill, would almost certainly result in the U.S. returning bona fide refugees to countries where their lives or freedom would be threatened.

As noted in my 6 March letter to Judiciary Committee Chairman Orrin Hatch, we offer our views regarding S. 269 with the hope that you and the other members of the Judiciary Committee will seek to adhere to the standards and principles set forth in the 1967 Protocol Relating to the Status of Refugees, to which the U.S. acceded in 1968.

In particular, UNHCR is concerned with the following special exclusion provisions:

(1) Lack of due process—Sections 133, 141 and 193 provide few procedural safeguards to ensure that true refugees are not erroneously returned to persecution.

(a) No administrative review—Under Section 141, special exclusion orders are not subject to administrative review (p. IB–4, line 19). Minimum procedural guidelines for refugee status determinations specify that an applicant should be given a reasonable time to appeal for a formal reconsideration of the decision. This principle is set forth in UNHCR Executive Committee Conclusion No. 8 (1977).[1] The ''prompt supervisory review'' provided for in Section 193 (p. IC–36, line 12) does not meet these minimum procedural guidelines.

(b) Limitation on access to counsel—Under Section 193, asylum-seekers arriving at US ports of entry with false documents or no documents are permitted to consult with a person of their choosing, only if such consultation does ''not delay the process'' (p. IC–36, line 25). Such a limitation is in violation of the principle that applicants for asylum should be given the necessary facilities for submitting his/her case to the authorities, including the services of a competent interpreter and the opportunity to contact a representative of UNHCR (UNHCR Executive Committee Conclusion No. 8 (1977)).

(2) Limitation on access to asylum—Section 193 provides that individuals presenting false or no documents or who are escorted to the US from a vessel at sea are not permitted to apply for asylum unless they traveled to the US from a country of claimed persecution and that the false document

[1] The UNHCR Executive Committee is a group of representatives from 50 countries, including the United States, that provides policy and guidance to UNHCR in the exercise of its refugee protection mandate.

used, if any, was necessary to depart from the country of claimed persecution. UNHCR requests the US to remove this limitation and to adhere to international principles which provide as follows:

(a) ''[A]sylum should not be refused solely on the ground that it could be sought from another State. Where, however, it appears that a person, before requesting asylum, already has a connexion or close links with another State, he may if it appears fair and reasonable be called upon first to request asylum from that State'' (UNHCR Executive Committee Conclusion No. 15 (1979) (emphasis added)).

(b) When refugees and asylum-seekers move in an irregular manner (without proper documentation) from a country where they have already found protection, they may be returned to that country if, in addition to being protected against refoulement (i.e. protected against return to a country where their lives or freedom would be threatened), they are treated in accordance with ''recognized basic human standards'' (UNHCR Executive Committee Conclusion No. 58 (1989)). UNHCR is prepared to assist in practical arrangement for the readmission and reception of such persons, consistent with these international standards.

(3) Credible fear standard—Sections 133, 141 and 193 create a new, heightened threshold standard that asylum-seekers must meet before they are permitted to present their claims in a hearing before an immigration judge. Under these sections, asylum-seekers who are brought or escorted to the US from a vessel at sea (Sections 133 and 141), who have entered the US without inspection, but have not resided in the US for two years or more (Section 141), who arrive during an ''extraordinary migration situation'' (Section 141) or who arrive at a port of entry with false documents or no documents (Section 193) must first establish a ''credible fear'' of persecution before they are permitted to present their claims in an asylum hearing before an immigration judge. UNHCR urges the adoption of a ''manifestly unfounded'' or ''clearly abusive'' standard which would reduce the risk that a bona fide refugee is erroneously returned to a country where s/he has a well-founded fear of persecution. This international standard for expeditious refugee status determinations is set forth in UNHCR Executive Committee Conclusion No. 30 (1983).

We are hopeful that you will support the elimination of a deadline for filing asylum applications. Failure to submit a request within a certain time limit should not lead to an asylum request being excluded from consideration (UNHCR Executive Committee Conclusion No. 15 (1979)). Under this international principle, the US is obliged to protect refugees from return to danger regardless of whether a filing deadline has been met.

Again, I thank you for your efforts to ensure that refugees are protected from return to countries of persecution. Please do not hesitate to contact my Office if UNHCR may be of any further assistance to you, your staff or other members of the Committee.

Sincerely,

ANNE WILLEM BIJLEVELD,
Representative.

Mr. LEAHY. Mr. President, I am not in any way trying to derail this bill. I am just saying that this is something that was tucked into it in the middle of the night. Nobody ever had a chance to debate it. It is in here. And it is going to make it impossible, or nearly impossible, for anyone from Fidel Castro's sister to somebody escaping torture and religious persecution to come to the United States, if traveling through a second country or traveling with a false passport to do it.

That makes no sense. That is not an antiterrorist situation. Look at ''Schindler's List.'' Remember Raoul Wallenberg. Think about those who escaped persecution by using false passports as a way they could get out of the country. They may well have to go through an intermediate country to get to the greatest nation of freedom on Earth. Just because somebody slipped these provisions into the conference report, let us not go along with it. This is something that should be debated.

Our own Department of Justice does not support these provisions of the bill. I think in fact the Justice Department reiterated their opposition to them in an April 16 letter on similar provisions in the immigration bill to the majority leader. Deputy Attorney General Gorelick wrote us, ''absent smuggling or an extraordinary migration situation, we can handle asylum applications for excludable aliens under our regular procedures.''

I reserve the balance of my time and yield to the Senator from Utah.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I do not really have anything more to say other than this is a very important piece of legislation. It is a key piece of legislation. It is desired by almost everybody who wants to do anything against terrorism. It is effective and strong. Even though we acknowledge we do not have everything everybody wants in this bill, it is a darn good bill that will make a real difference. If this motion or any motion to recommit passes, this bill is dead, it will be killed. So we simply have to defeat any and all motions to recommit. I will move to table the amendment at the appropriate time. I am prepared to yield back the balance of my time on this amendment.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, the Senator from Utah, the distinguished chairman of the committee, keeps referencing that——

The PRESIDING OFFICER. Does the Senator from Vermont yield time to the Senator from Delaware?

Mr. LEAHY. Yes. I understand I have about 4 minutes. I yield 2 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, the Senator from Utah keeps saying anything will kill this bill. That is not true. This is not ''kill this bill.'' If we send this back to conference for one or two or 12 amendments it does not kill this bill. Every major bill we had, including the crime bill, we sent back to conference with instructions—at least on three occasions. This will not kill this bill.

Some of this has not been well thought out. Much of what we left out of the bill, I am convinced, on reconsideration by our friends in the House, they would change their view. But I want to make it clear, I do not believe there is any evidence to suggest that sending this back to conference with specific instructions would kill the bill.

I am prepared, if the chairman and if Senator LEAHY is, to yield back. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. LEAHY. Does the Senator from California care to speak on this?

Mrs. BOXER. No. I am waiting for the next motion.

Mr. LEAHY. Mr. President, I thought Senator KENNEDY wished to speak on this.

I am ready to yield back the balance of my time.

Mr. HATCH. I am prepared to yield back the balance of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. HATCH. Mr. President, I ask unanimous consent that the pending Leahy motion to recommit be temporarily set aside with the vote to occur on or in relation to the Leahy motion after completion of debate on the next motion to recommit.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Senators should be aware there will be two consecutive rollcall votes following completion of all debate on the next motion.

Mr. President, I also ask unanimous consent to move to table the Leahy amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, for the benefit of my colleagues, to review the bidding from yesterday, the distinguished chairman of the committee and I agreed on a unanimous-consent proposal that we have one-half hour on each of up to as many as 14 motions. I doubt there will be that many. But we will move them out seriatim here. I see my distinguished colleague from California, Senator BOXER, is on the floor prepared to go with her motion, to begin to debate her motion. So I would, with the permission of the Senator from Utah, yield to the Senator from California for that purpose.

I will make one important point, Mr. President. At the appropriate time I will make the motion. As I understand the parliamentary situation, debate must be concluded before I make the motion, otherwise the motion is subject to immediately being tabled, which I do not think my friend has any

intention of doing. But just to make sure we do it by the numbers—I beg your pardon. I have been informed by staff we got unanimous consent yesterday that that is not necessary, that we can offer the motion. But I will offer the motion at this point.

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, I offer a motion to recommit the conference report with instructions to add provisions on the National Firearms Act statute of limitations. For the purpose of discussion of that motion, I send that motion to the desk.

The PRESIDING OFFICER. The motion is now pending.

The motion is as follows:

Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:

SEC. . INCREASED PERIODS OF LIMITATION FOR NATIONAL FIREARMS ACT VIOLATIONS.

Section 6531 of the Internal Revenue Code of 1986 is amended—

(1) by redesignating paragraphs (1) through (8) as subparagraphs (A) through (H), respectively; and

(2) by amending the matter immediately preceding subparagraph (A), as redesignated, to read as follows: ''No person shall be prosecuted, tried, or punished for any criminal offense under the internal revenue laws unless the indictment is found or the information instituted not later than 3 years after the commission of the offense, except that the period of limitation shall be—

''(1) 5 years for offenses described in section 5861 (relating to firearms and other devices); and

''(2) 6 years—.''.

The PRESIDING OFFICER. There will be 30 minutes equally divided. Who yields time?

Mr. BIDEN. I thank the Chair for its assistance. I yield as much time as the Senator from California may need under my control.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mrs. BOXER. Thank you, Mr. President. I want to thank the Senator from Delaware for taking the leadership on this issue. Every motion that he will make today is a motion that is tough on crime. Every single motion that he will make, if it is carried by this U.S. Senate, will make this a better bill.

The motion that he just sent to the desk means a lot to the Senator from California because I offered it to this U.S. Senate. It was adopted unanimously. I have to say, it is inexplicable to me why this provision would have been stricken. I do know there are certain groups that oppose it, one in particular, the NRA. I cannot for the life of me understand why else this would have been stricken from the Senate bill.

Let me explain the amendment that I offered which is the subject of this motion. What we would do is simply make sure that under the National Firearms Act when there is a crime which deals with making a bomb, making a silencer, making a sawed-off shotgun, that there be a period of time of 5 years rather than 3 years for law enforcement to track down and prosecute the criminal who would commit such a crime.

There is an anomaly in the United States Code right now. These crimes are the only ones that have a 3-year statute of limitations. Let me explain why this is so bad and why we must fix it. If there is a crime where a terrorist makes a bomb and the bomb explodes and it kills people—and we have just, of course, revisited, as our President did, the tragedy in Oklahoma City, and the 1-year anniversary of that dreadful day is coming quickly upon us—if a criminal had a bomb in his home or in his farmhouse or in his truck or hidden away for a period of a year, let us say, while he made that bomb, the statute of limitations starts running from the day the bomb is made. In such a case law enforcement would have only 2 years to track down and put away such a criminal.

I do not understand why those who claim to be tough on crime would drop from this bill a commonsense provision. Striking this provision makes it easier to get away with making a bomb. It is that simple.

Who supports this BOXER amendment? How did I even learn about it? I learned about it from local law enforcement people who asked me to fight this fight. I learned about it from the Justice Department, who asked us to carry this fight. I learned about it from the Treasury Department, which heads the ATF, and they asked me to fight for this. Mr. President, 47 police chiefs told me to fight for this. For them, I offered this amendment to establish a 5-year statute of limitations for making a bomb, a sawed-off shotgun, or a silencer. It is pretty straightforward.

I think the American people understand this, and people can stand up here as long as they want, and I have respect for them. However, I must question them when stand up here and say, ''Well, gee, Senator BOXER, if we kept your amendment in here, this whole bill would go down.'' Show me one U.S. Senator of either party, show me one House Member who would truly stand up and say that a criminal who makes a bomb, who makes a silencer, who makes a sawed-off shotgun should get away with it because of a 3-year statute of limitations. If any disparity is warranted, bomb making ought to be a longer statute, because a bomb could be hidden in somebody's possession for a long time before it was detonated and before it was used.

The police chief of Oklahoma City supports this. Let me repeat that: The police chief of Oklahoma City supports this amendment. They know they need time to put together their case.

What are we doing here? Are we doing the bidding of the NRA, or are we doing the bidding of the American people? Are we trying to protect the people from these vicious crimes, these cowardly crimes? It is horrible enough when someone walks up to someone else and injures them with a weapon. That is a horrible crime and it should be punishable by the worst possible punishment.

It is unbelievable to me that this was stricken by this conference committee. I thought we were going to be tough on crime.

Last night, a simple proposal that would say if a chemical weapon was used, local law enforcement could call on our military to get help was defeated in this Republican Senate—defeated. Now, ask the average law enforcement person in the local community if they are experts on chemical and biological weapons. They will tell you no. Just as in my amendment, if you ask them, do you need more time to go after the cowards that would make a bomb, they would say, ''We need more time, Senator. Fight for your amendment.'' We did, and it passed this Senate, and it was dropped in conference. It comes back to us with this piece missing.

I am stunned that would be the case. There is no argument except the one that the distinguished chairman makes over and over again on each of these motions which is, ''You know that your amendment, Senator, will kill this bill.'' Well, I do not know that. I never got one letter, one note of opposition to this commonsense proposal supported by the police chief of Oklahoma City and all the other law enforcement people who know it takes time to put together these complex cases.

I say if anyone believes this is bad policy, if they disagree with me on substance, if they disagree with the police chief of Oklahoma City and all the other police chiefs, the Justice Department and the administration, why do they not come down here? I say if they agree that it is common sense that altogether these crimes should have a minimum of a 5-year statute of limitations, they should support the Biden motion to recommit.

It defies imagination that we are now here refighting important commonsense proposals included in the Senate version of this bill.

I hope that my Republican friends will support this motion. I think it is absolutely key that we not tie the hands of law enforcement. We are coming to the 1-year anniversary of Oklahoma City. We know the investigation is going on and is continuing. If you asked every American, no matter what political stripe, no matter what part of the country they are from, they would say that it is important to give law enforcement enough time to investigate these complex cases—that is all we are asking for. This does not cost any money. It simply gives law enforcement time, time to make sure that they have completed their investigation and those cowards who would blow

up innocent people are put away and dealt with in the harshest possible fashion.

I say that is being tough on crime. I hope that we will have support for this motion to recommit. Mr. President, I yield the floor. I reserve whatever time I might have.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I will not take long because, frankly, it comes down to one thing: that we have worked this bill out. We have worked hard with the House Members. It has been very difficult to do. They have made significant concessions to us, and rightfully so. We applaud them for doing so because we have our problems here, and they have their problems there.

Anybody who has been in this process very long understands that once you reach a conference report like this—especially this one, which has taken a year to get here—any change is going to kill the bill—especially this provision.

Section 108 of the Senate bill, in part, would increase from 3 to 5 years the limitations period for commencing actions for violations of the National Firearms Act. The reason it is opposed by Members of the House, and the reason I oppose this attempt to increase the limitations provision, simply put, is because it is unnecessary. It does absolutely nothing with regard to terrorism. The 3-year Internal Revenue Code statute of limitation period for licensed firearms dealers violating the National Firearms Act is more than an adequate time to commence prosecutions.

There is no sanguine reason to extend the period. This has nothing to do with terrorism. It may be a good idea in another context, but it is apparent that it would cause plenty of problems in this context because there are simply people in the House—and I suspect here—who disagree with the distinguished Senator from California, who is very sincere in putting this amendment forward.

The statute of limitations period should be built upon fairness. These types of statutes of limitation must protect the Government's ability to prosecute claims and violations of the law. Yet, they also have to protect citizenry from stale claims and bureaucratic abuse. In this area there are a significant number of people on both sides of the floor here, and in the House of Representatives in particular, who have seen unfairness by various bureaucratic abusers and do not want to change this.

The traditional 3-year limitations period here accomplishes this fine balance between public needs and private rights. If we look at the underlying National Firearms Act offenses subject to a 3-year limitations period, the violations either prohibit dealers from possessing or transferring illegal firearms, such as banned machine guns or sawed-off shotguns, or possessing or transferring them without the proper firearm identification serial numbers, or through fraudulent applications or records. The 3-year limitations period, historically, has been more than sufficient to prosecute claims under the act, some being substantive but many of an administrative or of a paperwork nature. Some are technical. And we have seen abuses. Extending the limitations period to 5 years does absolutely nothing except perhaps open the system up to abuse and unfairness. Frankly, that is why our colleagues in the House are against this amendment. That is why I am against it here today.

I am prepared to yield, and I reserve the remainder of my time.

Mr. BIDEN. Mr. President, I yield myself 2 minutes of what I understand to be 5 minutes of remaining time.

The idea, of course, here, Mr. President, is that the proposal that is in the bill, the failure to do this in the bill does not make sense. Listen to some of the types of weapons covered. Poison gas, bombs, grenades, rockets having propellant charges of more than 4 ounces, missiles having an explosive or incendiary charge of more than one-quarter ounce, mines—these are not playthings we are talking about. Remember, the statute of limitations runs not from the time the crime becomes public knowledge, but from the time the crime was committed. So if a terrorist builds a bomb secretly, keeps it in his barn for 2½ years, and blows up a building with it, the Federal prosecutors only have 6 months to track the guy down and get an indictment for building that bomb.

Crimes covered by the National Firearms Act are serious. They involve illegal manufacture of rockets, bombs, missiles, and sawed-off shotguns. So I cannot understand why anybody would oppose bringing the statute of limitations for these crimes into line with almost every other Federal crime.

Here are a few examples of crimes with a 5-year statute: Simple assault; stealing a car; impersonating a Federal employee; buying contraband cigarettes; impersonating, without authority, the character Smokey the Bear. If we are going to give the Government 5 years to track down a guy who impersonates Smokey the Bear, why not track down a guy who is involved in producing poison gas in his garage or barn?

I yield the remainder of my time to the Senator from California.

Mrs. BOXER. Mr. President, I say to the Senator from Delaware that, as usual, he has put this in exactly the right manner. There is no reason on God's green Earth why this should not have been kept in this bill. Again, just ask the American people. Sometimes things sound very complicated. When the Senator from Utah got up and discussed the law, he makes it sound too complicated for the average person to understand. When you tell the average person that if you get out there and impersonate Smokey the Bear, law enforcement has 5 years to track you down, prosecute you, and put you away, but if you make a bomb, they have 3 years, it makes no sense whatsoever.

When the Senator from Utah says I am very sincere, I appreciate that. He knows me and he knows that I am, and I know that he is as well. But this is not about my sincerity. This is about a tool that law enforcement has asked the Congress to give them. So in the remainder of my time, I am going to read into the RECORD the local police chiefs who have asked us to give them this tool. It does not cost any money and does not set up a new bureaucracy. It gives them a commodity they want: time. So I am going to read, in the time that remains, the people who said to me, ''Senator, this is important. Let us get this statute of limitations extended so we can go after these bad, cowardly criminals and put them away.''

The police chiefs of San Jose, CA; San Francisco, CA; Berkeley, CA; Los Angeles Port, CA; Salinas, CA; San Leandro, CA; Indianapolis, IN; the police chief of Oklahoma City, OK; the director of police in Roanoke, VA; the chiefs of police in Bladensburg, MD; Edwardsville, IL; Rock Hill, SC; Old Saybrook, CT; North Little Rock, AR; Puyallup, WA; Yarmouth, ME; Kinnelton, NJ; Bel Ridge, St. Louis, MO; Charleston, SC; Jackson, MS; Salem, MA; Scottsdale, AZ; Cambridge, MA; Haverhill, MA; Millvale, Pittsburgh, PA; Newport News, VA; Dekalb County Police, Decatur, GA; Opelousas, LA; Eugene, OR; Mobile, AL; Portland, OR; East Chicago, IN; Louisville, KY; Alexandria, VA; Renton, WA; Waukegan, IL; Port St. Lucie, FL; Greensboro, NC; Miami, FL; Buffalo, NY; Oxnard, CA; Seattle, WA.

The PRESIDING OFFICER. The time of the Senator from California has expired.

Mrs. BOXER. Thank you. I hope people will listen to the local chiefs and support the motion of the Senator from Delaware.

Mr. HATCH. Mr. President, look, if the Senator's arguments are valid, why do we not make it a 100-year statute of limitations? I mean, we can make it that way. They can prosecute any time they want to prosecute.

The fact of the matter is that we are trying to balance our law enforcement needs. Most of these are paperwork violations that are going to be automatically ascertained within a very short period of time, certainly within 3 years. If we make it 5 years, they will wait 4½ years before prosecuting on a paperwork violation rather than 2½ years, which is sometimes the case now.

There is simply no reason to extend the statute of limitations for this act. Anyone who uses a bomb, as is the illustration by the Senator from California, or illegal weapon, under this act,

will be prosecuted under the Criminal Code and receive far larger penalties than are under this act. The majority of these offenses are mere paperwork offenses and have little or nothing to do with terrorism. Essentially, it would permit bureaucrats, like I say, 4½ years to start an investigation instead of 2½ years. That is really sometimes what happens.

Let us get back to where we were; that is, that we have arrived at a compromise here, and we have had to bring the House a long distance to meet the needs of the Senate. They have cooperated and have worked hard. Chairman HYDE and the other members of the conference have all worked very hard on this, and this is where we are. There are those on both sides of the floor over there who do not like this amendment, and, frankly, it would be a deal killer and a bill killer. If we want an antiterrorism bill, we have to vote down this motion to recommit.

I am prepared to yield the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAMS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN addressed the Chair.

Mr. HATCH. Mr. President, I yield 60 seconds of my time to the distinguished Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I would like to make two very brief points.

I do not believe this is a deal killer, No. 1. But No. 2, there are two pieces here. It is illegal to make a bomb. It is illegal to put together poison gas. That is one crime all by itself. The second crime is if you go out and use it. So, if you used a bomb to blow up buildings, a new statute of limitations starts to run.

There is a distinction between what is lacking in this bill across the board, between prevention and apprehension. We not only want to get the bad guys who do the bad things; we want to prevent the bad guys from being able to do the bad things. By allowing the statute of limitations to be like it is for Smokey the Bear impersonation, and everything else in the Federal code—just about—it gives us more time to track down the people who have prepared or are stockpiling this kind of material, whether or not they have used it. That is an important distinction.

I think this is an important amendment. I cannot believe for a moment that this would kill the bill, that you would have 35 people in the House vote against this because we made the statute of limitations for making poison gas the same as for impersonating Smokey the Bear. I find that unfathomable.

I thank my colleague for yielding me an extra minute.

Mr. HATCH. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 6 minutes and 20 seconds.

Mr. HATCH. Mr. President, let me answer the distinguished Senator.

There are people on both sides of the aisle over there who do not like this amendment. We have taken a year to get this done. It was done 1 month after we passed the Senate bill, which, by the way, was an excellent bill. The fact of the matter is, there are people over there who will kill this bill over any amendment at this particular point. Everybody knows that. This is not something new to us.

We have had to fight our guts out to get this conference and get the conference report done. Frankly, there are a wide variety of viewpoints on this bill and on some of the aspects of this bill.

Look, if somebody is making a bomb, it is very likely you could charge that person under conspiracy, or an attempt statute, or under a number of other statutes that have longer statutes of limitations. This is not—I do not want to call it a phony issue, but it certainly is not an issue that should allow a motion to recommit.

Frankly, 3 years is plenty of time to get somebody who makes a bomb. If they do not get it under this statute, they will get it under something else. But if you expand it to 5 years, then all of these paperwork violations—which primarily is what is prosecuted under this statute, and some of them very unjustly so in the past—all of those become dragged out for another 2 years.

Frankly, we want the law enforcement people, if they feel they have a legitimate reason to prosecute, to prosecute it, and do it quickly so the witnesses are available, so that a lot of other things can be done and the people can defend themselves.

So there are a number of legitimate reasons why people do not like this amendment and why people in the House would not want this in the bill. The purpose of this is to give the bureaucrats a new lease on life without really stopping terrorism. That is what we are talking about here.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, what is the current business?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. HATCH. I yield back the remaining part of my time. What is the current business?

VOTE ON LEAHY MOTION TO RECOMMIT

The PRESIDING OFFICER. The question is now on the motion to table the Leahy motion.

Mr. HATCH. We do have the motion to table.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. HATCH. Mr. President, on behalf of Senator DOLE and myself, I also move to table the Biden-Boxer motion, and ask for the yeas and nays as well.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. It is my understanding that these votes will be back to back starting now.

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the motion to lay on the table the motion of the Senator from Vermont. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 61, nays 38, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—61

Abraham	Exon	Lugar
Ashcroft	Faircloth	McCain
Bennett	Feinstein	McConnell
Bond	Frist	Murkowski
Breaux	Gorton	Nickles
Brown	Gramm	Pressler
Bryan	Grams	Reid
Burns	Grassley	Roth
Byrd	Gregg	Santorum
Campbell	Hatch	Shelby
Chafee	Hatfield	Simpson
Coats	Helms	Smith
Cochran	Hollings	Snowe
Cohen	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Jeffords	Thomas
D'Amato	Johnston	Thompson
DeWine	Kassebaum	Thurmond
Dole	Kempthorne	Warner
Domenici	Kyl	
Dorgan	Lott	

NAYS—38

Akaka	Graham	Moseley-Braun
Baucus	Harkin	Moynihan
Biden	Heflin	Murray
Bingaman	Inouye	Nunn
Boxer	Kennedy	Pell
Bradley	Kerrey	Pryor
Bumpers	Kerry	Robb
Conrad	Kohl	Rockefeller
Daschle	Lautenberg	Sarbanes
Dodd	Leahy	Simon
Feingold	Levin	Wellstone
Ford	Lieberman	Wyden
Glenn	Mikulski	

NOT VOTING—1

Mack

So the motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, since these are two stacked votes, I ask unanimous consent that there be 1

minute for debate equally divided in the usual form prior to the vote on the motion to table the Biden-Boxer motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

BIDEN MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, let me explain briefly what this is. First, right now there is a statute of limitations that if you go out and impersonate Smokey the Bear, you have 5 years to track them down, if you write a bad check you have 5 years. If you make poison gas, if you make a chemical weapon, if you have a rocket propellant charge of more than 4 ounces, if you produce missiles and hide them in your garage, and they find them, without them being used, they only have a 3-year statute of limitations. So if they did not find them until 1 year after you have made them, you have 2 years. If they did not find them until 2½ years, you have 6 months. We want to make this a 5-year statute of limitations, just like impersonating Smokey the Bear.

This is mindless not to do this when you are talking about making poison gas and chemical weapons and grenade launchers.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. This is a National Firearms Act and 3-year limitation. These are mainly paperwork violations. If someone violates beyond that—and for even paperwork they can get them for conspiracy. They can prosecute them under a whole variety of statutes that have longer statutes of limitation.

This is not a serious issue to us in the Senate, but it is a very serious issue to those in the House. We have worked hard to fashion this compromise. It is a doggone good compromise. Our friends in the House have really worked hard to help us to get it done. Frankly, this motion, as well as others, would kill the bill. So I hope my fellow Senators will vote against this motion.

The PRESIDING OFFICER. All time for debate has expired.

Mr. HATCH. Mr. President, this is a motion to table, is it not?

The PRESIDING OFFICER. That is correct.

Mr. HATCH. I do not have to move to table?

The PRESIDING OFFICER. No.

The question is on agreeing to the motion to table the Biden motion to recommit the conference report on S. 735 to the committee on conference with instructions. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The PRESIDING OFFICER (Mr. GREGG). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—53

Abraham	Faircloth	McCain
Ashcroft	Frist	McConnell
Baucus	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Pressler
Brown	Grassley	Roth
Burns	Gregg	Santorum
Campbell	Hatch	Shelby
Chafee	Hatfield	Simpson
Coats	Helms	Smith
Cochran	Hutchison	Snowe
Cohen	Inhofe	Specter
Coverdell	Jeffords	Stevens
Craig	Kassebaum	Thomas
D'Amato	Kempthorne	Thompson
DeWine	Kyl	Thurmond
Dole	Lott	Warner
Domenici	Lugar	

NAYS—46

Akaka	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Reid
Byrd	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Wellstone
Exon	Leahy	Wyden
Feingold	Levin	
Feinstein	Lieberman	

NOT VOTING—1

Mack

The motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, we are now going to move to a motion that I offer to recommit the conference report with instructions to add a provision on multipoint wiretaps that was in our original Senate bill.

I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:

SEC. . REVISION TO EXISTING AUTHORITY FOR MULTIPOINT WIRETAPS.

(a) Section 2518(11)(b)(ii) of the title 18 is amended: by deleting ''of a purpose, on the part of that person, to thwart interception by changing facilities.'' and inserting ''that the person had the intent to thwart interception or that the person's actions and conduct would have the effect of thwarting interception from a specified facility.''

(b) Section 2518(11)(b)(iii) is amended to read: ''(iii) the judge finds that such showing has been adequately made.''

(c) The amendments made by subsection (a) and (b) of this amendment shall be effective 1 day after the enactment of this Act.

The PRESIDING OFFICER. There will be 30 minutes equally divided.

Mr. BIDEN. I yield myself 2 minutes.

Mr. President, the distinguished Senator, and former Attorney General of the State of Connecticut, is here. We are going to divide this up a little bit. I want to make in my opening statement here a clarification for anyone listening as to what we are doing here, because we are really not changing anything that is not already done in any significant way.

These multipoint wiretaps are made out to be this major new concoction that they have come up with to interfere in the lives of people. I was told in the House conference that some Members of the House thought that it meant that the FBI would be in vans roving down the street literally eavesdropping on people's homes. It is bizarre what people think this means.

Let me explain what has to happen now to get a multipoint wiretap. There are all sorts of provisions built into the law now for the Federal Government: One, the Government must convince a judge that there is probable cause to believe that a specific person is committing a specific crime, as with any other wiretap. Two, the application even to ask a Federal judge for one of these wiretaps is approved at the very top level of the Justice Department, either by the Attorney General herself, or the Deputy Attorney General, or the Assistant Attorney General for the Criminal Division. No U.S. attorney in America can go out and ask a judge for one of these. No U.S. attorney can do that. No assistant U.S. attorney can do it without the approval of the Attorney General, Deputy Attorney General, or the head of the Criminal Division.

The application submitted must identify the person involved and believed to be committing the crime, and whose communications are to be the ones intercepted. A judge then has to find that the target's action—that is, the person who they are targeting. Say, we think our reporter here is in fact committing a crime. What you have to do is get the judge to believe that there is probable cause to believe a crime has been committed, that he is engaging in an activity. And, further, when they decide that you can wiretap not only his home phone, but the mobile phone he has in his pocket, the phone he has in his car, and the pay phone he uses all the time—the judge has to believe that the person is committing the crime—and communications are intercepted, it has to be proved that he is trying to effectively thwart the tap. For example, if my phone is tapped and there is probable cause that I committed a criminal offense, and I walk every day at 2 o'clock down to the pay phone on the corner, or I use a cell phone and then get rid of the new cell phone every day and get a new one, then that effectively thwarts the ability of the Federal Government investigators to tap someone where there is probable cause that they committed a crime. So that

judge has to believe all that before he grants such an order.

In addition, any interception cannot begin until the officers have clearly determined that the target in question—that is, the person they believe committed the crime—is using a particular tapped phone. Once the target is off the phone, the interception must end. It does not say, by the way, that any phone that the target uses can be tapped. It says that we have reason to believe that he is using the following phone, one, two, or three. You can tap those phones.

Once the phone is tapped, if you go to your mother-in-law's house to use the phone, and after you get off, your mother-in-law is off the phone, they cannot, under the law, tap your mother-in-law. They must end the surveillance. It must stop. It must stop.

In addition, the moment the target leaves the phone, the tap on that phone has to be disengaged. It cannot be used. Any evidence cannot be used that would come from such a tap, if it stayed on. So this is nothing new. What is new is that, under the present law, this is used for the mob and other outfits. Under the present law, you have to show that the person is intending to thwart the surveillance—intending to. So essentially what you have to get is a mobster or terrorist saying, ''I cannot use this phone in my house anymore because I think it is tapped. I am going to be going other places to use other phones. I will get to you later.'' That is what you basically have to prove now.

What we are saying in this law is—and 77 Senators voted for it last year—if the effect of the target is to thwart the surveillance, that is all you need to prove. The effect is to thwart the surveillance. You do not have to prove that he intended to thwart the surveillance; you have to prove the effect is to thwart surveillance.

So, again, a minor change already exists with multipoint wiretaps, is already in place. I will quote Mr. MCCOLLUM, the Republican leader of the Criminal Subcommittee. When I offered this in conference, he said:

I think the reality is quite simple here—

This is MCCOLLUM speaking to me.

You are 100 percent right.

I am 100 percent right.

It is the single-most important issue we are not putting in this bill. We have got to find some way to do it. But we are not going to get the votes for this bill, and we could not get the votes for this freestanding bill, I don't think, right this minute in the House.

Get the first part: ''It is the single-most important issue we are not putting in the bill.'' Mr. MCCOLLUM is right.

I yield the remainder of my time to the distinguished Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my colleague from Delaware. Mr. MCCOLLUM was right. Senator BIDEN was right in everything he said, except for where he said you could not wiretap my mother-in-law. I would like to talk to him later about that.

Mr. BIDEN. If the Senator will yield for 3 seconds. His mother-in-law may be listening.

Mr. LIEBERMAN. She probably is.

Mr. President, let me say first, both to the Senator from Delaware and the Senator from Utah, how very pleased in general I am that we have come as far as we have on this legislation. Over a year ago, President Clinton challenged us to reach a bipartisan consensus on counterterrorism legislation in the aftermath of the Oklahoma City tragedy. The Senate promptly did so, including the Dole-Hatch substitute bill we passed last spring, including in that bill most of the key provisions of the President's own counterterrorism bill offered earlier in the year by Senator BIDEN and others.

Unfortunately, the Senate's spirit of bipartisanship did not reach the other body and did not, as fully as I think it should, reach the conference itself. The conference has produced a report and a bill that I would term a good bill in the war against terrorism. But it could and should be better. That is why I am supporting Senator BIDEN's motion to recommit, particularly directing the conference committee to insert this so-called multipoint wiretapping that I was privileged to offer along with Senator BIDEN and which, as he has indicated, passed the Senate overwhelmingly. Not only was that amendment dropped in conference, but even what I thought was the entirely uncontroversial provision in the Senate bill that would add specific terrorism offenses to the list of crimes for which wiretaps may be authorized was dropped as well. In other words, if there is a suspected terrorist out there now and law enforcement wants to tap his or her phones, they have to do so on suspicion of a crime being committed but it cannot be a terrorist act. They have to find some other specific crime that was committed.

Mr. President, these omissions puzzle me and trouble me. I am afraid that they represent some strange left-right marriage of fear or skepticism or cynicism about the Government and about law enforcement officials particularly. As Senator BIDEN has said, the power to wiretap—let me say from my own experience and others in law enforcement—is a critically important tool in the hands of law enforcement, and they need that tool not to feather their own nest or build their own empires; they need it to protect us from the criminals, and in this case the terrorists. They are on our side, those who work for the U.S. attorneys, the FBI, the DEA, and the whole range of other law enforcement officials down to the State and local police. They are on our side.

There is somehow a feeling that has grown at the extremes of our political discourse that we have a lot to fear from them. This provision, as Senator BIDEN has said, incorporates the classically American due process rules to make sure that any wiretap that is obtained is approved by a judge and is applied and used in narrowly and clearly circumscribed ways.

Mr. President, for everything I know about terrorism, the ability to penetrate the highly secretive world of terrorists is the single most effective tool law enforcement officials have to prevent terrorism acts from happening and then to bring the terrorists to justice. We can build barriers around Federal buildings. We can increase law enforcement presence and try to fortify obvious targets. But we can never defend all of the targets of terrorists, because they are cowards. They will look for and strike undefended targets without remorse about killing innocent civilians. You simply cannot protect every target. They will strike everywhere. The object of the terrorist is to create terror and panic. So, the best defense we have against them is an offense, to penetrate their operations and to know that they are about to strike before they strike so we can cut them off. If there was ever a category of crime that warranted the full range of wiretap capacities that law enforcement officials have today, it is terrorism. That is what this amendment would do.

Look. In a way, by not including this amendment that the Senate passed overwhelmingly, more essentially, allowing the terrorist to use all of the tools of modern technology, leave the house phone, go to the cell phone, go to the car phone, go to the phone booth, and we are saying to law enforcement, ''Oh, no, you cannot. We are going to make it hard for you to follow them. You are going to have to prove that they are moving with an intent to thwart that wiretap.''

Senator BIDEN's example is so perfect. Basically we are saying to the law enforcement folks, you have to hear a terrorist say on the phone that, ''I got to hang up, John. I'm afraid the FBI is listening to me. I am going to move out to my cell phone.'' You need that kind of proof of intent to get, under the current law, this multipoint wiretap.

So we are saying to the bad guys, the criminals, the terrorists, you can use all of this modern telecommunications equipment, but we are going to stop law enforcement from trailing them. It is as if we said during the cold war that we had intelligence information that the Soviet Union had developed some very strong new weapon, that the Pentagon had the ability to counteract that weapon with a defense, but we are going to put strictures on them from using that weapon. It does not make sense. It is why I think it is so important to adopt this amendment.

Mr. President, multipoint wiretaps are used very sparingly because of the requirements that Senator BIDEN set out. They have proved, however, according to testimony submitted by Deputy Attorney General Jamie Gorelick to the Judiciary Committee,

highly effective tools in prosecuting today's highly mobile criminals and terrorists who may switch phones frequently for any number of reasons. Again, as we have asked before on other measures, why allow ease of obtaining a multipoint wiretap against other criminals, including organized crime criminals, and not allow it against terrorists who threaten us in such a devastating way?

Mr. President, the aim of this motion to recommit is a simple one. We want to be sure that our law enforcement officials receive the tools they need, the tools that will be there for them so that swift and effective action can be taken to prevent the World Trade Center explosion, to prevent Oklahoma City, to prevent any future disaster of that kind. We owe our Federal law enforcement officials that authority, that capacity, those tools. But the truth is we owe it to ourselves. They are out there trying to protect us and our families from being innocent victims of a terrorist. Every counterterrorism expert that I have ever talked to or ever heard, within the Government and without, will emphasize the importance of infiltration and surveillance in countering terrorists and bringing them to justice. Given the devastating effects of these acts, not only the maiming and death of men, women, and children, but these acts are assaults on the institutions of our Government, on the democratic processes which we cherish, and on our fundamental liberty to move safely and confidently throughout our society. They create the kind of fear that undercuts the freedom that we have fought for.

So I do not understand why we would not want to give the law enforcement officials the same authority to obtain wiretaps when pursuing terrorists that they have under current law to pursue other kinds of criminals, and why we do not want to improve their ability to track all criminals, including terrorists, as they move from phone to phone and from place to place with the obvious intent of thwarting surveillance and covering their treacherous, deadly deeds.

Mr. President, finally, I say we need to give the conferees another chance to strengthen this bill. As I said at the outset, it is a good bill, but it can and should be a better bill. I fear that, if we do not include a power like this one, that we are going to come to a day when we are going to look back and regret it—a terrorist act that will occur that could have been stopped if law enforcement had this authority.

I know we want to pass this bill and have the President sign it by the first anniversary of the Oklahoma City tragedy, but the truth is that I would rather see us do this right, do it as strongly and effectively as we can. And if it takes a few more days, so be it. We have waited this long. We can wait a little longer to protect ourselves, our society, the institutions of our Government, and the basic freedom to live and move around in our great country from the horrible acts of terrorists within our midst.

I thank the Chair. I yield the floor.

Mr. HATCH. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Utah has 15 minutes and the Senator from Delaware has 1 minute and 54 seconds.

Mr. HATCH. Mr. President, I do not disagree with my two distinguished colleagues on that side that this might be a useful provision. After all, I wrote it, and we put it in the Senate bill. I drafted the multipoint language in the Senate bill. However, since that time, some have raised, in their eyes, serious questions as to whether this expanded authority to wiretap American citizens and others is necessary.

Because of that, we have worked out this bill through a long series of meetings for over a year, culminating Monday night in a conference where we put everything in this bill we could possibly get into it. We brought it very close to what the original Senate bill was. I think it is a darned good bill. We could not get the other side to agree on this provision. It comes down to whether we want a bill or we do not.

To this end, because of that, then I insisted we at least put in a study, a balanced study to look at the excesses of law enforcement with regard to wiretapping and the needs of law enforcement with regard to wiretapping and the applications of it. The distinguished Senator from Connecticut and I both understand how important it is, and so does, of course, the ranking Democrat on the committee. We will require the Justice Department to review its law enforcement surveillance needs and report back to Congress.

On that basis, I just want to say that I am committed to working with both Senator BIDEN and Senator LIEBERMAN to craft legislation which will provide law enforcement with the electronic surveillance capabilities it needs, wiretap authority it needs. I am going to get this done one way or the other in an appropriate way, but the study is important in the eyes of those on the other side. It is important in my eyes.

I do not want to go into this thing halfcocked, nor do I want to lose this bill because others feel we may be moving into it halfcocked without having looked at it in a balanced way. So I will work with both of my colleagues to craft legislation to provide law enforcement with whatever wiretap authority, expanded wiretap authority it needs beyond what it has today. I give my colleagues my assurance that we will move in this direction with dispatch. I think they both know, when I say that, I mean it. The truth, however, is that this provision would have done nothing—and I repeat nothing—to stop the Oklahoma bombing. This is not antiterrorism legislation that would have been necessary to stop the Oklahoma bombing. While multipoint wiretaps may be useful in crime investigation, we simply do not need to put them in this particular legislation at this time.

Last evening, Israel was bombed in another bombing attack. I personally do not believe we should wait one more day—knowing that is going on over there and knowing that we have at least 1,500 known terrorists and organizations in this Nation, I do not think we should wait one more day, not one more hour in my book, in voting for final passage of this bill. We want to assure that terrorist funding is prohibited and stopped, and this bill goes a long way toward doing that.

Let me mention for the record the letters of support that we have for this bill. They are wide ranging and across the political spectrum: The National Association of Attorneys General, the National Association of Police Officers, the National District Attorneys Association, the Anti-Defamation League, Survivors of the Oklahoma Bombing, Citizens for Law and Order, the International Association of Chiefs of Police, the National Sheriffs Association, the National Troopers Association, the Law Enforcement Alliance of America, 34 individual State attorneys general including the California attorney general, California's District Attorneys Association, the National Government Association with regard to the habeas corpus provision, and various Governors, and so forth. It is okayed by the Governor of Oklahoma, who is a Republican, Frank Keating, and by the Democrat attorney general, with whom I have had a great deal of joy working, Drew Edmonson. I have a lot of respect for him, and he has been willing to work with us to try to get this done.

Frankly, we do not have a letter, but we do have the verbal support of AIPAC, and I might say other attorneys general in this country who have written to us and want to be mentioned. We will put that all in the RECORD.

This is important. This bill is important. I know my colleagues know I am sincere when I say I will find some way of resolving these multipoint wiretap problems. Unfortunately, they were called roving wiretaps when they came up, and just that rhetorical term has caused us some difficulties and has caused some of the people who feel, after Waco, Ruby Ridge, Good Ol' Boys Roundup, et cetera, that even law enforcement sometimes is too intrusive into all of our lives, and at this particular time of the year, at tax time, with the feelings about the IRS, there are some who literally feel this is going too far and it will kill this bill if we put it in.

So I will move ahead. We will have the study, but I will move ahead even while the study is being conducted and do everything I can with my two colleagues here to get this problem resolved. I intend to do it, and we will get it done.

I am going to move to table this. I hope folks will vote for the motion to

table so that we can continue to preserve this bill and get it done, quit playing around with it and get it done. I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware has 1 minute 54 seconds remaining.

Mr. BIDEN. Mr. President, if the problem is people misunderstand because this is a roving wiretap, one thing that will get everybody's attention is we amend it, send it back, and it will become real clear. In about 20 minutes of discussion, we can have it back here, and it will not kill the bill—if that is the reason.

No. 2, in the letter from the chiefs, the president of the International Association of Chiefs of Police, they do support the bill but they are very clear. Let me quote. They say:

> This legislation does not deal with the ability of law enforcement to use roving wiretaps or 48-hour wiretaps in the case of terrorism even though this later type of wiretap is already authorized in other special situations.

They list what they do not like about the bill. They do not like the fact that this is not in the bill. They strongly support this wiretap authority. And if we cannot get it done now in this bill, I respectfully suggest to my friend that no matter how much he wishes to fix this, there will be no ability to get it done standing alone.

I yield back whatever seconds I may have remaining.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. The fact is that we have to pass this bill. Frankly, I think we can get this problem solved. It is kind of a world turned upside down. When I got here 20 years ago, it was the conservatives who wanted expanded wiretap authority and the liberals fought it with everything they had. But now all of a sudden we have the liberals fighting for wiretap authority and conservatives concerned about it.

The fact is it is not just the rhetoric. There is some sincere concern on the part of some Members of the House who are crucial to the passage of this bill about putting this in at this time. I believe we can resolve this problem in the future, and I will work hard to do it with my colleagues, but it really cannot be in this bill if we want a terrorism bill at this time.

I yield back the remainder of my time. On behalf of Senator DOLE and myself, I move to table the motion and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to recommit. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—58

Abraham	Feingold	Murkowski
Ashcroft	Frist	Nickles
Bennett	Gorton	Pressler
Bond	Gramm	Reid
Brown	Grams	Roth
Bryan	Grassley	Santorum
Burns	Gregg	Shelby
Campbell	Hatch	Simon
Chafee	Hatfield	Simpson
Coats	Helms	Smith
Cochran	Hutchison	Snowe
Cohen	Inhofe	Specter
Coverdell	Jeffords	Stevens
Craig	Kassebaum	Thomas
D'Amato	Kempthorne	Thompson
DeWine	Kyl	Thurmond
Dole	Lott	Warner
Domenici	Lugar	Wellstone
Dorgan	McCain	
Faircloth	McConnell	

NAYS—40

Akaka	Glenn	Lieberman
Baucus	Graham	Mikulski
Biden	Harkin	Moseley-Braun
Bingaman	Heflin	Moynihan
Boxer	Hollings	Murray
Bradley	Inouye	Nunn
Bumpers	Johnston	Pell
Byrd	Kennedy	Pryor
Conrad	Kerrey	Robb
Daschle	Kerry	Rockefeller
Dodd	Kohl	Sarbanes
Exon	Lautenberg	Wyden
Feinstein	Leahy	
Ford	Levin	

NOT VOTING—2

Breaux	Mack

So the motion to table the motion to recommit was agreed to.

Mr. MOYNIHAN. I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

MOTION TO RECOMMIT

Mr. MOYNIHAN. Mr. President, I send to the desk a motion and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from New York [Mr. MOYNIHAN] moves to recommit the conference report on the bill S. 735.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the motion to recommit is as follows:

> Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on deleting the following:
>
> ''(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—
>
> ''(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or
>
> ''(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.'';
>
> from section 104 of the conference report''.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, the distinguished ranking member and manager have asked that I yield myself such time as I may require, and I add with the proviso, as much time as he wishes. I will obviously yield to him.

The PRESIDING OFFICER. The Senator has 15 minutes.

Mr. MOYNIHAN. Mr. President, this is a proposal to strike an unprecedented provision—unprecedented until the 104th Congress—to tamper with the constitutional protection of habeas corpus.

The provision reads:

> (d) An application for writ of habeas corpus on behalf of a person in custody pursuant to the judgment of State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—''(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or ''(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

We are about to enact a statute which would hold that constitutional protections do not exist unless they have been unreasonably violated, an idea that would have confounded the framers. Thus we introduce a virus that will surely spread throughout our system of laws.

Article I, section 9, clause 2 of the Constitution stipulates, ''The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.''

We are at this moment mightily and properly concerned about the public safety, which is why we have before the Senate the conference report on the counterterrorism bill. But we have not been invaded, Mr. President, and the only rebellion at hand appears to be against the Constitution itself. We are dealing here, sir, with a fundamental provision of law, one of those essential civil liberties which precede and are the basis of political liberties.

The writ of habeas corpus is often referred to as the ''Great Writ of Liberty.'' William Blackstone called it

''the most celebrated writ in English law, and the great and efficacious writ in all manner of illegal imprisonment.'' It is at the very foundation of the legal system designed to safeguard our liberties.

I repeat what I have said previously here on the Senate floor: If I had to choose between living in a country with habeas corpus but without free elections, or a country with free elections but without habeas corpus, I would choose habeas corpus every time. To say again, this is one of the fundamental civil liberties on which every democratic society of the world has built political liberties that have come subsequently.

I make the point that the abuse of habeas corpus—appeals of capital sentences—is hugely overstated. A 1995 study by the Department of Justice's Bureau of Justice Statistics determined that habeas corpus appeals by death row inmates constitute 1 percent of all Federal habeas filings. Total habeas filings make up 4 percent of the caseload of Federal district courts. And most Federal habeas petitions are disposed of in less than 1 year. The serious delays occur in State courts, which take an average of 5 years to dispose of habeas petitions. If there is delay, the delay is with the State courts.

It is troubling that Congress has undertaken to tamper with the Great Writ in a bill designed to respond to the tragic circumstances of the Oklahoma City bombing last year. Habeas corpus has little to do with terrorism. The Oklahoma City bombing was a Federal crime and will be tried in Federal court.

Nothing in our present circumstance requires the suspension of habeas corpus, which is the practical effect of the provision in this bill. To require a Federal court to defer to a State court's judgment unless the State court's decision is unreasonably wrong effectively precludes Federal review. I find this disorienting.

Anthony Lewis has written of the habeas provision in this bill: ''It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed.'' If we agree to this, to what will we be agreeing next? I restate Mr. Lewis' observation, a person of great experience, a long student of the courts, ''It is a new and remarkable concept in law: that mere wrongness in a constitutional decision is not to be noticed.'' Backward reels the mind.

On December 8, four United States attorneys general, two Republicans and two Democrats, all persons with whom I have the honor to be acquainted, Benjamin R. Civiletti, Jr., Edward H. Levi, Nicholas Katzenbach, and Elliot Richardson—I served in administrations with Mr. Levi, Mr. Katzenbach, and Mr. Richardson; I have the deepest regard for them—wrote President Clinton. I ask unanimous consent that the full text be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 8, 1995.

Hon. WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The habeas corpus provisions in the Senate terrorism bill, which the House will soon take up, are unconstitutional. Though intended in large part to expedite the death penalty review process, the litigation and constitutional rulings will in fact delay and frustrate the imposition of the death penalty. We strongly urge you to communicate to the Congress your resolve, and your duty under the Constitution, to prevent the enactment of such unconstitutional legislation and the consequent disruption of so critical a part of our criminal punishment system.

The constitutional infirmities reside in three provisions of the legislation: one requiring federal courts to defer to erroneous state court rulings on federal constitutional matters, one imposing time limits which could operate to completely bar any federal habeas corpus review at all, and one preventing the federal courts from hearing the evidence necessary to decide a federal constitutional question. They violate the Habeas Corpus Suspension Clause, the judicial powers of Article III, and due process. None of these provisions appeared in the bill that you and Senator Biden worked out in the last Congress together with representatives of prosecutors' organizations.

The deference requirement would bar any federal court from granting habeas corpus relief where a state court has misapplied the United States Constitution, unless the constitutional error rose to a level of ''unreasonableness.'' The time-limits provisions set a single period for the filing of both state and federal post-conviction petitions (six months in a capital case and one year in other cases), commencing with the date a state conviction becomes final on direct review. Under these provisions, the entire period could be consumed in the state process, through no fault of the prisoner or counsel, thus creating an absolute bar to the filing of a federal habeas corpus petition. Indeed, the period could be consumed before counsel had even been appointed in the state process, so that the inmate would have no notice of the time limit or the fatal consequences of consuming all of it before filing a state petition.

Both of these provisions, by flatly barring federal habeas corpus review under certain circumstances, violate the Constitution's Suspension Clause, which provides: ''The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in the cases of rebellion or invasion the public safety may require it'' (Art. I, §9, cl. 1). Any doubt as to whether this guarantee applies to persons held in state as well as federal custody was removed by the passage of the Fourteenth Amendment and by the amendment's framers' frequent mention of habeas corpus as one of the privileges and immunities so protected.

The preclusion of access to habeas corpus also violates Due Process. A measure is subject to proscription under the due process clause if it ''offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental,'' as viewed by ''historical practice.'' *Medina* v. *California,* 112 S.Ct. 2572, 2577 (1992). Independent federal court review of the constitutionality of state criminal judgments has existed since the founding of the Nation, first by writ of error, and since 1867 by writ of habeas corpus. Nothing else is more deeply rooted in America's legal traditions and conscience. There is no case in which ''a state court's incorrect legal determination has ever been allowed to stand because it was reasonable,'' Justice O'Connor found in *Wright* v. *West,* 112 S.Ct. 2482, 2497; ''We have always held that federal courts, even on habeas, have an independent obligation to say what the law is.'' Indeed, Alexander Hamilton argued, in The Federalist No. 84, that the existence of just two protections—habeas corpus and the prohibition against ex post facto laws—obviated the need to add a Bill of Rights to the Constitution.

The deference requirement may also violate the powers granted to the judiciary under Article III. By stripping the federal courts of authority to exercise independent judgment and forcing them to defer to previous judgments made by state courts, this provision runs afoul of the oldest constitutional mission of the federal courts: ''the duty . . . to say what the law is.'' *Marbury* v. *Madison,* 5 U.S. (1 Cranch) 137, 177 (1803). Although Congress is free to alter the federal courts' jurisdiction, it cannot order them how to interpret the Constitution, or dictate any outcome on the merits. *United States* v. *Klein,* 80 U.S. (13 Wall.) 128 (1871). Earlier this year, the Supreme Court reiterated that Congress has no power to assign ''rubber stamp work'' to an Article III court. ''Congress may be free to establish a . . . scheme that operates without court participation,'' the Court said, ''but that is a matter quite different from instructing a court automatically to enter a judgment pursuant to a decision the court has not authority to evaluate.'' *Gutierrez de Martinez* v. *Lamagno,* 115 S.Ct 2227, 2234.

Finally, in prohibiting evidentiary hearings where the constitutional issue raised does not go to guilt or innocence, the legislation again violates Due Process. A violation of constitutional rights cannot be judged in a vacuum. The determination of the facts assumes'' and importance fully as great as the validity of the substantive rule of law to be applied.'' *Wingo* v. *Wedding,* 418 U.S. 461, 474 (1974).

The last time habeas corpus legislation was debated at length in constitutional terms was in 1968. A bill substantially eliminating federal habeas corpus review for state prisoners was defeated because, as Republican Senator Hugh Scott put it at the end of debate, ''if Congress tampers with the great writ, its action would have about as much chance of being held constitutional as the celebrated celluloid dog chasing the asbestos cat through hell.''

In more recent years, the habeas reform debate has been viewed as a mere adjunct of the debate over the death penalty. But when the Senate took up the terrorism bill this year, Senator Moynihan sought to reconnect with the large framework of constitutional liberties: ''If I had to live in a country which had habeas corpus but not free elections,'' he said, ''I would take habeas corpus every time.'' Senator Chafee noted that his uncle, a Harvard law scholar, has called habeas corpus ''the most important human rights provision in the Constitution.'' With the debate back on constitutional grounds, Senator Biden's amendment to delete the deference requirement nearly passed, with 46 votes.

We respectfully ask that you insist, first and foremost, on the preservation of independent federal review, i.e., on the rejection of any requirement that federal courts defer to state court judgments on federal constitutional questions. We also urge that separate time limits be set for filing federal and state habeas corpus petitions—a modest change which need not interfere with the setting of strict time limits—and that they begin to run only upon the appointment of competent counsel. And we urge that evidentiary hearings be permitted wherever the factual

record is deficient on an important constitutional issue.

Congress can either fix the constitutional flaws now, or wait through several years of litigation and confusion before being sent back to the drawing board. Ultimately, it is the public's interest in the prompt and fair disposition of criminal cases which will suffer. The passage of an unconstitutional bill helps no one.

We respectfully urge you, as both President and a former professor of constitutional law, to call upon Congress to remedy these flaws before sending the terrorism bill to your desk. We request an opportunity to meet with you personally to discuss this matter so vital to the future of the Republic and the liberties we all hold dear.

Sincerely,

BENJAMIN R. CIVILETTI, Jr., *Baltimore, MD.*
EDWARD H. LEVI, *Chicago, IL.*
NICHOLAS DEB. KATZENBACH, *Princeton, NJ.*
ELLIOT L. RICHARDSON, *Washington, DC.*

Mr. MOYNIHAN. Mr. President, let me read excerpts from the letter:

The habeas corpus provisions in the Senate bill . . . are unconstitutional. Though intended in large part to expedite the death penalty review process, the litigation and constitutional rulings will in fact delay and frustrate the imposition of the death penalty . . .

The constitutional infirmities . . . violate the Habeas Corpus Suspension Clause, the judicial powers of Article III and due process . . .

. . . A measure is subject to proscription under the due process clause if it ''offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental,'' as viewed by ''historical practice.''

That is Medina versus California, a 1992 decision. To continue,

Independent federal court review of the constitutionality of state criminal judgments has existed since the founding of the Nation, first by writ of error, and since 1867 by writ of habeas corpus.

Nothing else is more deeply rooted in America's legal traditions and conscience. There is no clause in which ''a state court's incorrect legal determination has ever been allowed to stand because it was reasonable.''

That is Justice O'Connor, in Wright versus West. She goes on, as the attorneys general quote,

We have always held that federal courts, even on habeas, have an independent obligation to say what the law is.

If I may interpolate, she is repeating the famous injunction of Justice Marshall in Marbury versus Madison.

The attorneys general go on to say:

Indeed, Alexander Hamilton argued, in The Federalist No. 84, that the existence of just two protections—habeas corpus and the prohibition against ex post facto laws—obviated the need to add a Bill of Rights to the Constitution.

The letter from the attorneys general continues, but that is the gist of it. I might point out that there was, originally, an objection to ratification of the Constitution, with those objecting arguing that there had to be a Bill of Rights added. Madison wisely added one during the first session of the first Congress. But he and Hamilton and Jay, as authors of the Federalist papers, argued that with habeas corpus and the prohibition against ex post facto laws in the Constitution, there would be no need even for a Bill of Rights. We are glad that, in the end, we do have one. But their case was surely strong, and it was so felt by the Framers.

To cite Justice O'Connor again:

A state court's incorrect legal determination has never been allowed to stand because it was reasonable.

Justice O'Connor went on:

We have always held that Federal courts, even on habeas, have an independent obligation to say what the law is.

Mr. President, we can fix this now. Or, as the attorneys general state, we can ''wait through several years of litigation and confusion before being sent back to the drawing board.'' I fear that we will not fix it now. The last time this bill was before us, there were only eight Senators who voted against final passage.

We Americans think of ourselves as a new nation. We are not. Of the countries that existed in 1914, there are only eight which have not had their form of government changed by violence since then. Only the United Kingdom goes back to 1787 when the delegates who drafted our Constitution established this Nation, which continues to exist. In those other nations, sir, a compelling struggle took place, from the middle of the 18th century until the middle of the 19th century, and beyond into the 20th, and even to the end of the 20th in some countries, to establish those basic civil liberties which are the foundation of political liberties and, of those, none is so precious as habeas corpus, the ''Great Writ.''

Here we are trivializing this treasure, putting in jeopardy a tradition of protection of individual rights by Federal courts that goes back to our earliest foundation. And the virus will spread. Why are we in such a rush to amend our Constitution? Eighty-three amendments have been offered in this Congress alone. Why do we tamper with provisions as profound to our traditions and liberty as habeas corpus? The Federal courts do not complain. It may be that if we enact this, there will be some prisoners who are executed sooner than they otherwise would have been. You may take satisfaction in that or not, as you choose, but we will have begun to weaken a tenet of justice at the very base of our liberties. The virus will spread.

This is new. It is profoundly disturbing. It is terribly dangerous. If I may have the presumption to join in the judgment of four attorneys general, Mr. Civiletti, Mr. Levi, Mr. Katzenbach, and Mr. Richardson—and I repeat that I have served in administrations with three of them—this matter is unconstitutional and should be stricken from this measure.

Fourteen years ago, June 6, 1982, to be precise, I gave the commencement address at St. John University Law School in Brooklyn. I spoke of the proliferation of court-curbing bills, at that time, but what I said is, I feel, relevant to today's discussion. I remarked,

. . . some people—indeed, a great many people—have decided that they do not agree with the Supreme Court and that they are not satisfied to Debate, Legislate, Litigate.

They have embarked upon an altogether new and I believe quite dangerous course of action. A new triumvirate hierarchy has emerged. Convene (meaning the calling of a constitutional convention), Overrule (the passage of legislation designed to overrule a particular Court ruling, when the Court's ruling was based on an interpretation of the Constitution), and Restrict (to restrict the jurisdiction of certain courts to decide particular kinds of cases).

Perhaps the most pernicious of these is the attempt to restrict courts' jurisdictions, for it is . . . profoundly at odds with our nation's customs and political philosophy.

It is a commonplace that our democracy is characterized by majority rule and minority rights. Our Constitution vests majority rule in the Congress and the President while the courts protect the rights of the minority.

While the legislature makes the laws, and the executive enforces them, it is the courts that tell us what the laws say and whether they conform to the Constitution.

This notion of judicial review has been part of our heritage for nearly two hundred years. There is not a more famous case in American jurisprudence than Marbury v. Madison and few more famous dicta than Chief Justice Marshall's that

It is emphatically the province and the duty of the judicial department to say what the law is.

But in order for the court to interpret the law, it must decide cases. If it cannot hear certain cases, then it cannot protect certain rights.

Mr. President, I am going to ask unanimous consent that a number of materials appear in the RECORD following my remarks. I apologize for the length, but if we are going to trifle with the Great Writ of Liberty, the record needs to be complete. The materials are as follows: a May 23, 1995 letter from the Emergency Committee to Save Habeas Corpus to the President and a one-page attachment; a June 1, 1995 letter from the Emergency Committee to me; a March 13, 1996 New York Times editorial entitled, ''The Wrong Answer to Terrorism''; an April 8, 1996 Times editorial entitled, ''Grave Trouble for the Great Writ''; three Anthony Lewis op-eds which appeared in the Times on July 7, 1995, December 8, 1995, and April 15, 1996 entitled ''Mr. Clinton's Betrayal'', Is It A Zeal To Kill?'', and ''Stand Up For Liberty'', respectively; and the third paragraph of the March 12, 1996 ''Statement of Administration Policy'' concerning H.R. 2703—the House version of the counterterrorism bill—which reads, in part: ''H.R. 2703 would establish a standard of review for Federal courts on constitutional issues that is excessively narrow and subject to potentially meritorious constitutional challenge.''

Mr. President, I ask unanimous consent that these materials be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOYNIHAN. Mr. President, we need to deal resolutely with terrorism. And we will. But if, in the guise of combating terrorism, we diminish the fundamental civil liberties that Americans have enjoyed for two centuries, then the terrorists will have won. With deep regret, but with a clear conscience, I will vote against the conference report to S. 735 as now presented.

EXHIBIT 1

EMERGENCY COMMITTEE TO SAVE HABEAS CORPUS,
May 23, 1995.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We understand that the Senate may act, as soon as tomorrow, on the habeas corpus provisions in Senator Dole's terrorism legislation. Among these provisions is a requirement that federal courts must defer to state courts incorrectly applying federal constitutional law, unless it can be said that the state ruling was ''unreasonable'' incorrect. This is a variation of the proposal by the Reagan and Bush administrations to strip the federal courts of the power to enforce the Constitution when the state court's interpretation of it, though clearly wrong, had been issued after a ''full and fair adjudication.''

The Emergency Committee was formed in 1991 to fight this extreme proposal. Our membership consists of both supporters and opponents of the death penalty, Republicans and Democrats, united in the belief that the federal habeas corpus process can be dramatically streamlined without jeopardizing its constitutional core. At a time when proposals to curtail civil liberties in the name of national security are being widely viewed with suspicion, we believe it is vital to ensure that habeas corpus—the means by which all civil liberties are enforced—is not substantially diminished.

The habeas corpus reform bill you and Senator Biden proposed in 1993, drafted in close cooperation with the nation's district attorneys and state attorneys general, appropriately recognizes this point. It would codify the long-standing principle of independent federal review of constitutional questions, and specifically reject the ''full and fair'' deference standard.

Independent federal review of state court judgments has existed since the founding of the Republic, whether through writ of error or writ of habeas corpus. It has a proud history of guarding against injustices born of racial prejudice and intolerance, of saving the innocent from imprisonment or execution, and in the process, ensuring the rights of all law-abiding citizens. We in the Emergency Committee have fought against proposals to strip the federal courts of power to correct unconstitutional state court actions, alongside other distinguished groups such as the NAACP Legal Defense Fund, the Southern Christian Leadership Conference, the American Bar Association, former prosecutors, and the committee chaired by Justice Powell on which all subsequent reform proposals have been based. We have met with Attorney General Reno, testified in Congress, and successfully argued in the Supreme Court against the adoption of a deference standard, in Wright v. West.

We hope you will use the power of your office to ensure that the worthwhile goal of streamlining the review of criminal cases is accomplished without diminishing constitutional liberties. If it would be helpful, we would be pleased to meet with you to discuss this vitally important matter personally.

Sincerely,

BENJAMIN CIVILETTI.
EDWARD H. LEVI.
NICHOLAS DEB. KATZENBACH.
ELLIOT L. RICHARDSON.

STATEMENTS ON PROPOSALS REQUIRING FEDERAL COURTS IN HABEAS CORPUS CASES TO DEFER TO STATE COURTS ON FEDERAL CONSTITUTIONAL QUESTIONS

''Capital cases should be subject to one fair and complete course of collateral review through the state and federal system. . . . Where the death penalty is involved, fairness means a searching and impartial review of the propriety of the sentence.''—Justice Lewis F. Powell, Jr., presenting the 1989 report of the Ad Hoc Committee on Federal Habeas Corpus in Capital Cases, chaired by him and appointed by Chief Justice William Rehnquist

''The federal courts should continue to review *de novo* mixed and pure questions of federal law. Congress should codify this review standard. . . . Senator Dole's bill [containing the ''full and fair'' deference requirement] would rather straightforwardly eliminate federal habeas jurisdiction over most constitutional claims by state inmates.''—150 former state and federal prosecutors, in a December 7, 1993 letter to Judiciary Committee Chairmen Biden and Brooks

''Racial distinctions are evident in every aspect of the process that leads to execution. . . . [W]e fervently and respectfully urge a steadfast review by federal judiciary in state death penalties as absolutely essential to ensure justice.''—Rev. Dr. Joseph E. Lowery, President, Southern Christian Leadership Conference, U.S. House Judiciary Committee hearing on capital habeas corpus reform, June 6, 1990

''The State court cannot have the last say when it, though on fair consideration and what procedurally may be deemed fairness, may have misconceived a federal constitutional right.''—Justice Felix Frankfurter, for the Court, in *Brown v. Allen,* 344 U.S. 443, 508 (1953)

''[There is no case in which] a state court's incorrect legal determination has ever been allowed to stand because it was reasonable. We have always held that federal courts, even on habeas, have an independent obligation to say what the law is.''—Justice Sandra Day O'Connor, concurring in *Wright v. West,* 112 S.Ct. 2482 (1992), citing 29 Supreme Court cases and ''many others'' to reject the urging of Justices Thomas, Scalia and Rehnquist to adopt a standard of deference to state courts on federal constitutional matters.

EMERGENCY COMMITTEE TO SAVE HABEAS CORPUS,
June 1, 1995.

Hon. DANIEL PATRICK MOYNIHAN,
Senate Russell Office Building,
Washington, DC.

DEAR SENATOR MOYNIHAN: We understand that the Senate may act next week on the habeas corpus provisions in Senator Dole's terrorism legislation. Among these provisions is a requirement that federal courts must defer to state courts incorrectly applying federal constitutional law, unless it can be said that the state ruling was ''unreasonably'' incorrect. This is a variation of past proposals to strip the federal courts of the power to enforce the Constitution when the state court's interpretation of it, though clearly wrong, had been issued after a ''full and fair'' hearing.

The Emergency Committee was formed in 1991 to fight this extreme proposal. Our membership consists of both supporters and opponents of the death penalty, Republicans and Democrats, united in the belief that the federal habeas corpus process can be dramatically streamlined without jeopardizing its constitutional core. At a time when proposals to curtail civil liberties in the name of national security are being widely viewed with suspicion, we believe it is vital to ensure that habeas corpus—the means by which all civil liberties are enforced—is not substantively diminished.

The hebeas corpus reform bill President Clinton proposed in 1993, drafted in close cooperation with the nation's district attorneys and state attorneys general, appropriately recognizes this point. It would codify the long-standing principle of independent federal review of constitutional questions, and specifically reject the ''full and fair'' deference standard.

Independent federal review of state court judgments has existed since the founding of the Republic, whether through writ of error or writ of hebeas corpus. It has a proud history of guarding against injustices born of racial prejudice and intolerance, of saving the innocent from imprisonment or execution, and in the process, ensuring the rights of all law-abiding citizens. Independent federal review was endorsed by the committee chaired by Justice Powell on which all subsequent reform proposals have been based, and the Supreme Court itself specifically considered but declined to require deference to the states, in Wright v. West in 1992.

We must emphasize that this issue of deference to state rulings has absolutely no bearing on the swift processing of terrorism offenses in the federal system. For federal inmates, the pending habeas reform legislation proposes dramatic procedural reforms but appropriately avoids any curtailment of the federal courts' power to decide federal constitutional issues. This same framework of reform will produce equally dramatic results in state cases. Cutting back the enforcement of constitutional liberties for people unlawfully held in state custody is neither necessary to habeas reform nor relevant to terrorism.

We are confident that the worthwhile goal of streamlining the review of criminal cases can be accomplished without diminishing constitutional liberties. Please support the continuation of independent federal review of federal constitutional claims through habeas corpus.

Sincerely,

BENJAMIN CIVILETTI.
EDWARD H. LEVI.
NICHOLAS DEB. KATZENBACH.
ELLIOT L. RICHARDSON.

[From the New York Times, Mar. 13, 1996.]

THE WRONG ANSWER TO TERRORISM

With the first anniversary of the Oklahoma City bombing approaching next month, Congress and the White House are pressing to complete action on new antiterrorism legislation. In haste to demonstrate their resolve in an election year, President Clinton and lawmakers from both parties are ready to approve steps that would dangerously erode American liberties. Combating terrorism is vitally important, but it should not threaten long-established rights of privacy, free speech and due process.

Last June the Senate rashly passed the Comprehensive Terrorism Protection Act of 1995. The bill contained some reasonable measures, including an increase in F.B.I. staff and revisions in Federal law that would make it easier to trace bombs and impose harsher penalties for dealing in explosives.

But the legislation also authorized intrusive new surveillance powers for law enforcement agencies, crackdown on suspect aliens

and an ill-advised blurring of the line between military and police forces. To assure passage, Mr. Clinton unwisely agreed to withdraw his objections to incorporating a change in habeas corpus standards that would limit death row appeals in Federal courts.

A corresponding bill under consideration in the House this week does not include some of the most troubling Senate provisions, including the expanded role for military forces in domestic law enforcement. But House members who take their constitutional vows seriously should eliminate or modify other damaging provisions in the bill.

Among other dubious steps, the House bill would grant the Secretary of State expansive authority to brand foreign groups and their domestic affiliates as terrorists, thereby making it a crime for Americans to support the group's activities, even if they are perfectly legal. Members of designated terrorist groups would be barred from entering the country to speak, reviving a discredited practice that was discarded in 1990 with repeal of the McCarthy-era McCarran-Walter Act.

Under the House legislation, the Attorney General would be given unchecked authority to elevate ordinary state and Federal crimes to acts of terrorism, carrying sentences ranging up to death. The F.B.I., which already has ample authority to pursue terrorists, would get new powers to obtain phone and travel records without having to establish that a suspect seemed to be engaging in criminal activity. Government wiretap authority would be expanded, with reduced judicial oversight.

The proposed change in habeas corpus would undermine the historic role of the Federal courts in correcting unconstitutional state court convictions and sentences. If Congress is determined to make this alteration, it should at least address the question separately and carefully, rather than tagging it onto an antiterrorism bill.

These objectionable measures are not included in a promising alternative bill proposed by three Democratic representatives—John Conyers Jr. of Michigan, Jerrold Nadler of New York and Howard Berman of California.

Americans were shaken and angered by the explosion that shattered the Federal building in Oklahoma City and killed 169 people. Congress is right to give Federal law enforcement agencies more money and manpower. Diminishing American liberties is not the solution to terrorism.

[From the New York Times, Apr. 8, 1996]

GRAVE TROUBLE FOR THE GREAT WRIT

Members of Congress are exploiting public concerns about terrorism to threaten basic civil liberties. Of these, not one is more precious than the writ of habeas corpus—the venerable Great Writ devised by English judges to guard against arbitrary imprisonment and, in modern terms, a vital shield against unfair trials.

Both the House and Senate have voted to weaken the modern version of habeas corpus beyond recognition. Invading the province of the independent Federal judiciary, their proposals would forbid judges from rendering their own findings of fact and law, virtually instructing the judges to decide cases against the petitioning prisoner. President Clinton, who has waffled on the issue, needs to warn Congress that he will not sign this unconstitutional measure just to get a terrorism law.

The writ has long been available in America to tell sheriffs and wardens to ''produce the body'' of the prisoner and justify the jailing in court. Congress applied the habeas corpus power in 1867 to give Federal district courts the power to review state criminal convictions. Since then, judges have set aside many sentences of prisoners who failed to receive fair trials, including some condemned to die because prosecutors concealed evidence of their innocence.

The antiterrorism bills contain provisions that would accelerate the executions of condemned prisoners, at great risk to their fundamental rights. These provisions have survived Congressional debate even though other provisions that might actually have done something about terrorism—banning bullets that pierce police vests and tagging explosives to enable law enforcement to trace terrorist bombs—were scrapped on the House floor.

The most pernicious legal change would instruct Federal judges that they are bound by state court findings when determining the fairness of a prisoner's criminal trial. Only when those findings are ''unreasonable'' or flatly contradict clearly announced Supreme Court rulings can the Federal court overturn them. State courts rarely disobey the high court openly. But they still make serious mistakes. Federal judges have often found state court judgments woefully sloppy though masked in neutral language the new proposals would insulate from review.

A Supreme Court case from last year makes the point. By a distressingly thin 5-to-4 margin, the Court set aside the death sentence of a man whose murder conviction rested on the word of an informant whose potential motives for falsely accusing him were known to the police but concealed from the defense. The condemned man's conviction survived many layers of state and Federal judicial review before reaching the Supreme Court. Under the proposal in Congress, the defendant, instead of getting a new trial, would get the chair.

By essentially telling independent Federal judges how to decide cases, the bill unconstitutionally infringes on the jurisdiction of a coordinate branch of government and potentially violates the Constitution's stricture that the writ of habeas corpus shall not be suspended except in time of war or dire emergency. It also includes unrealistic deadlines for filing court petitions and undue restraints on legal resources available to prisoners. Unless a Senate-House conference committee can disentangle habeas corpus from terrorism, Mr. Clinton has a duty to warn that he will veto the entire package.

[From the New York Times, July 7, 1995]

MR. CLINTON'S BETRAYAL

(By Anthony Lewis)

BOSTON.—For Bill Clinton's natural supporters, the most painful realization of his Presidency is that he is a man without a bottom line. He may abandon any seeming belief, any principle. You cannot rely on him.

There is a telling example to hand. As the Senate debated a counterterrorism bill last month, Mr. Clinton changed his position on the power of Federal courts to issue writs of habeas corpus. The Senate then approved a provision that may effectively eliminate that power.

The issue may sound legalistic, but habeas corpus has been the great historic remedy for injustice. By the Great Writ, as it is called, Federal courts have set aside the convictions of state prisoners because they were tortured into confessing or convicted by other unconstitutional means.

In recent years conservatives in Congress have attacked the habeas corpus process because it delays the execution of state prisoners on death row. Some prisoners do file frivolous petitions. But in other cases conservative Federal judges have found grave violations of constitutional rights—ones not found in state courts, often because the defendants had such incompetent lawyers.

After the Oklahoma City bombing, Senate Republicans decided to attach a crippling habeas provision to the counterterrorism bill. On May 23 four former Attorneys General, Democrats and Republicans—Benjamin Civiletti, Nicholas deB. Katzenbach, Edward H. Levi and Elliot L. Richardson—wrote President Clinton urging him to oppose it.

''It is vital,'' they wrote, ''to insure that habeas corpus—the means by which *all* civil liberties are enforced—is not substantively diminished.

. . . It has a proud history of guarding against injustices born of racial prejudice and intolerance, of saving the innocent from imprisonment or execution and in the process insuring the rights of all law-abiding citizens.''

Two days later President Clinton wrote the Senate majority leader, Bob Dole, to say that he favored habeas corpus reform so long as it preserved ''the historic right to meaningful Federal review.'' The issue should be addressed later, he said, not in the counterterrorism bill.

Then, on June 5, Mr. Clinton appeared on television on CNN's ''Larry King Live.'' Asked about habeas corpus, he said reform ''ought to be done in the context of this terrorism legislation.''

It was a complete switch from his position of less than two weeks before. And it had the effect of undermining Senate supporters of habeas corpus.

Two days later the Senate approved the Republican measure. The House has also passed stringent restrictions on habeas corpus, so almost certainly there will be legislation putting a drastic crimp on the historic writ.

The Senate bill says that no Federal court may grant habeas corpus to a state prisoner if state courts had decided his or her claim on the merits—unless the state decision was ''contrary to, or involved an unreasonable application of'' Federal constitutional law as determined by the Supreme Court.

That language seems to mean that Federal judges must overlook even incorrect state rulings on constitutional claims, so long as they are not ''unreasonably'' incorrect. It is a new and remarkable concept in law; that mere wrongness in a constitutional decision is not to be noticed.

Experts in the field say the provision may effectively eliminate Federal habeas corpus. It signals Federal judges to stay their hands. And what Federal judge will want to say that his state colleagues have been not just wrong but ''unreasonable''?

The President explained to Larry King that attaching the habeas corpus provision to the counterterrorism bill would speed proceedings in the prosecutions brought over the Oklahoma bombing. But those are Federal prosecutions, not covered by this bill.

No, the reason for President Clinton's turnabout is clear enough. He thinks there is political mileage in looking tough on crime. Compared with that, the Great Writ is unimportant.

In 1953 Justice Hugo L. Black wrote: ''It is never too late for courts in habeas corpus proceedings . . . to prevent forfeiture of life or liberty in flagrant defiance of the Constitution.'' Now, thanks to Bill Clinton and the Republicans in Congress, it may be.

[From the New York Times, Dec. 8, 1995]

IS IT A ZEAL TO KILL?

(By Anthony Lewis)

An Illinois man who had been on death row for 11 years, Orlando Cruz, had a new trial last month and was acquitted of murder. The

record, including police perjury, was so rank that the Justice Department has begun investigating possible civil rights violations.

In the last 20 years, 54 Americans under sentence of death have been released from prison because of evidence of their innocence. In an important pending case, a U.S. Court of Appeals has scheduled a hearing for Paris Carriger, an Arizona death row inmate who some usually skeptical criminologists believe is probably innocent.

Congress is now preparing to deal with the fact that innocent men and women are occasionally sentenced to death in this country. Congress's answer is: Execute them anyway, guilty or innocent.

That result will follow, inevitably, from legislation that is heading for the floor of the House and has already passed the Senate. It would limit Federal habeas corpus, the legal procedure by which state prisoners can go to Federal courts to argue that they were unconstitutionally convicted or sentenced.

Federal habeas corpus has played a crucial part in saving wrongly convicted men and women from execution. One reason is that state judges, most of them elected, want to look strongly in favor of capital punishment. For example, Alabama judges have rejected 47 jury recommendations for life sentences, imposing death instead, while reducing jury death sentences to life only 5 times.

The habeas corpus restrictions moving through Congress would increase the chance of an innocent person being executed in two main ways.

The first deals with the right to bring in newly discovered evidence of innocence in a fresh habeas corpus petition. There are legal rules against successive petitions, but there is an escape hatch for genuine evidence of innocence.

Today a prisoner is entitled to a habeas corpus hearing, despite the rules against repeated petitions, if his new evidence makes it ''more likely than not that no reasonable juror would have convicted him.'' The pending legislation would change the ''more likely'' standard to the far more demanding one of ''clear and convincing evidence.''

Second, the legislation as passed by the Senate raises a new obstacle. Federal courts would be forbidden to grant habeas corpus if a claim had been decided by state courts—unless the state decision was ''an arbitrary or unreasonable'' interpretation of established Federal constitutional law.

Apparently, a Federal judge could not free a probably innocent state prisoner if he had been convicted as the result of a state court constitutional ruling that was merely wrong. It would have to be ''unreasonably'' wrong—a remarkable new concept.

Why would members of Congress want to increase the chances of innocent men and women being gassed or electrocuted or given lethal injections? Perhaps I am naive, but I find that difficult to understand.

The country's agitated mood about crime, fed by demagogic politicians, makes Congress—and Presidents—want to look tough on crime. One result is zeal for the death penalty.

But that cannot explain a zeal to cut off newly discovered evidence of a prisoner's likely innocence and execute him, guilty or innocent. Can our political leaders really be so cynical that they put the tactical advantage of looking tough on crime ahead of an innocent human life?

It is a question for, among others, Senator Orrin Hatch and Representative Henry Hyde, chairmen of the Senate and House Judiciary Committees. Whatever their political outlook, I have never thought them indifferent to claims of humanity.

President Clinton must also face the reality of what this legislation would do. Last May he wrote Senator Bob Dole that he favored habeas corpus reform so long as it preserved ''the historic right to meaningful Federal review.'' He opposed adding a habeas corpus provision to counterterrorism legislation—but a few days later he abandoned that position.

In the House the clampdown on habeas corpus is going to be part of a counterterrorism bill coming out of the Judiciary Committee. The bill has many other problems, of fairness and free speech. But the attack on habeas corpus is a question of life and death.

[From the New York Times, Apr. 15, 1996]

STAND UP FOR LIBERTY

(By Anthony Lewis)

WASHINGTON.—In one significant respect, Bill Clinton's Presidency has been a surprising disappointment and a grievous one. That is in his record on civil liberties.

This week Congress is likely to finish work on legislation gutting Federal habeas corpus, the historic power of Federal courts to look into the constitutionality of state criminal proceedings. Innocent men and women, convicted of murder in flawed trials, will be executed if that protection is gone.

And President Clinton made it possible. With a nod and a wink, he allowed the habeas corpus measure to be attached to a counterterrorism bill that he wanted—a bill that has nothing to do with state prosecutions.

House and Senate conferees are likely to finish work on the terrorism bill this week, and both houses to act on it. Last week Attorney General Janet Reno sent a long letter to the conferees. Reading it, one is struck by how insensitive the Clinton Administration is to one after another long-established principle of civil liberties.

The letter demands, for example, that the Government be given power to deport aliens as suspected terrorists without letting them see the evidence against them—arguing for even harsher secrecy provisions than ones the House struck from the bill last month. It says there is no constitutional right to see the evidence in deportation proceedings, though the Supreme Court has held that there is.

Ms. Reno denounces the House for rejecting a Clinton proposal that the Attorney General be allowed to convert an ordinary crime into ''terrorism'' by certifying that it transcended national boundaries and was intended to coerce a government. Instead, in the House bill, the Government would have to prove those charges to a judge and jury—a burden the Clinton Administration does not want to bear.

The Reno letter objects to ''terrorists'' being given rights. But that assumes guilt. The whole idea of our constitutional system is that people should have a fair chance to answer charges before they are convicted. Does Janet Reno think we should ignore the Fourth and Fifth and Sixth Amendments because they protect ''criminals''? Does Bill Clinton?

Even before the terrorism bill, with its habeas corpus and numerous other repressive provisions, the Administration had shown a cavalier disregard for civil liberties. The Clinton record is bleak, for example, in the area of privacy.

President Clinton supported the F.B.I.'s demands for legislation requiring that new digital telephone technology be shaped to assure easy access for government eavesdroppers. That legislation passed, and then the Administration asked for broader wiretap authority in the counterterrorism bill. (That is one proposal Congress seems unwilling to swallow.)

The President also supported intrusive F.B.I. demands for ways to penetrate methods used by businesses and individuals to assure the privacy of their communications. He called for all encryption methods to have a decoder key to which law-enforcement officials would have access.

Recently Mr. Clinton issued an executive order authorizing physical searches without a court order to get suspected foreign intelligence information. That is an extraordinary assertion of power, without legislation, to override the Constitution's protection of individuals' privacy.

He has also called for a national identity card, which people would have to provide on seeking a job to prove they are not illegal aliens. That idea is opposed by many conservatives and liberals as a step toward an authoritarian state.

Beyond the particular issues, Mr. Clinton has failed as an educator. He has utterly failed to articulate the reasons why Americans should care about civil liberties: the reasons of history and of our deepest values. This country was born, after all, in a struggle for those liberties.

His record is so disappointing because he knows better. Why has he been so insensitive to the claims of liberty?

The answer is politics: politics of a narrow and dubious kind. The President wants to look tough on terrorism and aliens and crime. So he demands action where there is no need or public demand. Without his push, the excesses of the terrorism bill would have no meaningful constituency.

He would do better for himself, as for the country, if he stood up for our liberties. And there is history. Does Bill Clinton really want to be remembered as the President who sold out habeas corpus?

EXCERPT FROM STATEMENT OF ADMINISTRATION POLICY

Finally, H.R. 2703 contains provisions to reform Federal habeas corpus procedures. The Administration has consistently and strongly supported habeas corpus reform in order to assure that criminal offenders receive swift and certain punishment. Indeed, the Administration believes that the bill could be improved to provide additional guarantees that offenders have only ''one bite at the apple'' and complete the process even more expeditiously. These further limitations should be accompanied by necessary changes in the scope of review afforded to such petitions. H.R. 2703 would establish a standard of review for Federal courts on constitutional issues that is excessively narrow and subject to potentially meritorious constitutional challenges. To achieve the twin goals of finality and fairness. H.R. 2703 should shorten the duration and reduce the number of reviews for each criminal conviction while preserving the full scope of habeas review so that it can continue to serve its historic function as the last protection against wrongful conviction. The Administration hopes to work with the House and the conferees to achieve these ends.

Mr. DOLE. Mr. President, is leader time reserved?

The PRESIDING OFFICER. Yes.

BROADCAST BLACKOUT

Mr. DOLE. Mr. President, TV broadcasters have broken their trust with the American people. For more than 40 years, the American people have generously lent TV station owners our Nation's airwaves for free. Now some broadcasters want more and will stop at nothing to get it. They are bullying Congress and running a multimillion-

dollar scare campaign to mislead the public.

The reason is simple: Why pay for something when you can get it for free? But there is one small problem. The airwaves are the Nation's most valuable natural resource and are worth billions and billions of dollars. They do not belong to the broadcasters. They do not belong to the phone companies. They do not belong to the newspapers. Each and every wave belongs to the American people, the American taxpayers. Our airwaves are just as much a national resource as our national parks.

Enter the TV broadcasters. Earlier this year, I blocked their legislative efforts to get spectrum for free. At my request, Congress is now holding open hearings on reforming our spectrum policies.

Apparently, the democratic process is not good enough for most broadcasters. So TV broadcasters are now running ads and so-called public service announcements, claiming that TV will die without this huge corporate welfare program, this billions and billions of dollars they want to take away from the American taxpayers. Of course, they do not call this giveaway welfare; they call it a tax. Imagine calling a giveaway a tax.

Also, I am aware that some broadcasters have asked Members of Congress to drop by their stations. In the midst of these friendly discussions, the broadcasters say, ''I thought you might want to see the ad we are considering running in your district.''

So much for subtlety.

It seems to me the broadcasters should be happy with the deal they already have. They have been getting free channels for years. In return, they fulfill public interest obligations, such as reporting news and information. Now they want more airwaves for free.

Newspapers also report the news, but Congress has never had to buy them off. It seems to me that giving broadcasters free spectrum is like giving newspapers free paper from our national forests.

Congress has never challenged whether broadcasters should be allowed to keep a channel. Instead, we are simply stating that if broadcasters want more channels, then they are going to pay the taxpayers for them. That does not kill television.

The broadcasters say they cannot afford to buy additional airwaves, which the Congressional Budget Office estimates is worth at least $12 billion. Last time I checked, the American people cannot afford to give it to them free.

We are trying to balance a budget with tax cuts for families with children, reducing spending, and closing loopholes.

Broadcasters say that if they had to pay for the extra airwaves, it would be the end of so-called free, over-the-air television. The facts speak otherwise. According to the Washington Post, over the last 2 years broadcast deals in the private sector amounted to a whooping $31.3 billion. That is with a ''b''—billion dollars.

Here is another fact. All TV broadcast licenses in America were originally given away for free, but only 6 percent are still in the hands of the original licensee. The other 94 percent have been bought and sold. My point is that broadcasters have a long history of paying top dollar for existing channels. Somehow they cannot afford any new ones unless the taxpayer picks up the tab.

UNFUNDED MANDATE ON CONSUMERS

Before Congress lets huge moneyed interests get their fingers on this national resource, we must be certain that the American taxpayer is fully protected. The policy broadcasters' want will not only force taxpayers to giveaway valuable airwaves, it will also force consumers to spend hundreds of billions of their own dollars on new equipment which is a point that I think has been overlooked. They have been trying to frighten everybody with television, and to get their way are going to have to have another television or some attachment.

The fact is that federally mandating a transition to digital broadcast will ultimately render all television sets in the country obsolete. You will not be able to use your television set.

Consumers will be forced to buy either new television sets or convertor boxes to receive so-called free, over-the-air broadcasts.

Last year we passed the unfunded mandates law. Perhaps some have forgotten, but that law applies to more than just State and local governments. It applies to the private sector and most importantly to individuals.

The impact of the broadcasters' plan would be dramatic. There are 222 million television sets in this country. At a Senate Budget Committee hearing last month, the broadcasters testified that the average digital television set's estimated cost is $1,500, while the less expensive converter box will cost approximately $500. Replacing every television set in America with a digital one would cost $333 billion. Using the less expensive converter box would cost $111 billion. No doubt about it, consumers will not be happy that Congress made this choice for them. That is precisely what we are going to do here unless we wake up and smell something.

The American people should have a say before Congress makes a decision on spectrum. After all, the airwaves are theirs and so are their TV sets. Neither belongs to the broadcasters.

NETWORK COVERAGE

Finally, TV broadcasters have rightly kept a watchful eye on a bloated Government. Whether it was $600 toilet seats or $7,000 coffee pots, they have always helped us quickly identify waste. But they have been strangely silent on this issue. In contrast, story after story, and editorial after editorial, protested this giveaway in the print media.

In fact, I have a whole bookful here. In fact, this is loaded with editorials and comments about this giveaway. You do not see it on television.

There have been a few exceptions. I want to be fair. CNN, which is a cable network, has reported on this issue, while CBS made an attempt a month ago. So-called public interest obligations seem to have gone out the window when it is not in the broadcasters' self-interest.

If five Senators took a legitimate trip somewhere overseas to investigate something that might be costing the American people money, that is reported on the evening news as a junket costing thousands and thousands of dollars to the American taxpayer because the Senators were over there trying to see if they were spending too much on foreign aid maybe in Bosnia or maybe somewhere else. That would be news. Maybe it is news. Maybe it should be reported. But when it comes to billion dollar giveaways, to them ''mum'' is the word. You never hear about it on television. Dan Rather will not utter a word. Peter Jennings, Tom Brokow—maybe they do not know about it. But I would say to the American taxpayers and the people with TV sets that somebody had better protect the American public.

I have even had a threatening letter, which I will not put in the file, that if I do not shape up and stop talking about this, this broadcaster is going to get his 700 employees to vote for someone else in November. That is intimidation.

I have no quarrel with the broadcasters. I have always thought they were my friends. But it seems to me that when we are trying to balance the budget and when we are asking everybody to make a sacrifice, then we ought to make certain that we do not give something away worth billions and billions and billions of dollars.

Maybe the broadcasters felt this issue was not newsworthy. But if that is the case, why did the National Association of Broadcasters vote to go on the offensive and launch a multi-million-dollar ad campaign to preserve, as they spin it, free, over-the-air broadcasting?

I have already indicated it is not going to be free. It is going to cost you $500 for a converter box or $1,500 for a new TV set. That is not free.

I did not realize that ad campaigns have replaced the evening news.

CONCLUSION

Mr. President, if the broadcasters have a case to make, Congress is prepared to hear them. We are having fair and open hearings. That is what democracy is all about. It is not about distorting the truth and making thinly veiled threats. The American people know this. And despite what some might think, we are not easily duped.

I hope that fairness will prevail. I do not know what the value should be. But we should find out. Maybe it is $1. Maybe it is $1 million. Maybe it is $50

billion. But I never found anything wrong with having a hearing and asking the people that might be impacted, including the American consumer, to come to testify. I believe many broadcasters understand their responsibility. Maybe there are only a few out there leading this effort to mislead the American public and to walk away with billions of dollars in welfare from the Congress of the United States.

I know this is not a very popular thing to do—to get up and take on TV broadcasters or radio broadcasters because they have a lot of free access to the airwaves. But I believe, if we are serious about the budget and serious about the future, serious about the taxpayers, that it at least ought to be raised.

So I think they are all legitimate. But I think those broadcasters who have not been blinded by greed—and there are a lot of them out there that have not—will help shape the future of television.

Again, I must say that I know it does not get a lot of attention. But there are all kinds of columns here by different people, William Safire and others, page after page, hundreds of pages of stories about this giveaway.

I know the broadcasters are meeting in Las Vegas, and I think it is time to throw the dice and have a hearing. Maybe they can make their case. That is what Congress is all about.

But it seems to me that the President, I think, should have an interest in this. It is not a partisan issue. It is an issue of how we are going to pay the bills, how we are going to balance the budget, and what amount will properly be received in charging for spectrum.

Mr. MOYNIHAN. Mr. President, will the majority leader yield for a question?

Mr. DOLE. I am happy to yield.

Mr. MOYNIHAN. Does the leader have in mind to schedule hearings and to ask the administration officials to testify?

Mr. DOLE. In fact, I think we have had one. Senator PRESSLER, chairman of the Commerce Committee, had 1 day of hearings. There will be another day of hearings, I think, next week to be followed by additional hearings. So there is an effort to have everybody come in and testify and then make a judgment.

I see the Senator from South Dakota is on the floor now. That was part of the agreement on the telecommunications bill—that the bill would go forward, there would be hearings, and Congress would make a judgment for the American people. We are going to have to cough up the money on what we should do.

Mr. MOYNIHAN. I thank the Senator. It is none too soon.

IRANIAN ARMS FOR BOSNIA

Mr. DOLE. Mr. President, since the report surfaced in the Los Angeles Times that President Clinton decided to allow Iran to provide arms to the Bosnians, there has been little, if any, response from the other side of the aisle.

Had there been a Republican in the White House, no doubt, the Democrats would have been all over the President. But, that is not the real issue. I am not here to be all over the President. This is not about the conduct of partisan politics, but the conduct of our foreign policy. This is about American leadership, American credibility, and Congressional oversight. That is why I met today with the chairmen of the Foreign Relations, Intelligence, Armed Services, and Judiciary Committees to discuss this serious foreign policy matter. For nearly 3 years, this administration opposed congressional efforts to lift the unjust and illegal arms embargo on Bosnia and Herzegovina. We were told, and the American people were told, that the United States was bound by the U.N. embargo on the former Yugoslavia. We were told that if America violated this embargo, we would lose support from our allies for other embargoes, such as the one against Iraq. Finally, we were told that lifting the embargo and allowing the Bosnians to have arms while U.N. forces were deployed in Bosnia, would endanger the troops of our allies.

Some people are saying, well, you knew that Iran was providing arms to the Bosnians. I would like to respond to that. While we read and heard reports that Iran was smuggling arms to the Bosnians, we did not know the President and his advisers made a conscious decision to give a green light for Iran to provide arms. Indeed, those of us who advocated lifting the arms embargo—Republicans and Democrats—argued that if America did not provide Bosnia with assistance, Iran would be Bosnia's only option. In my view, the role of the President and administration officials in this matter need to be examined—even if we do not receive cooperation from the White House and the Intelligence Oversight Board—which has been the case to date.

In the meeting I held with the four committee chairmen today, we decided on the approach we would take. The Intelligence Committee will investigate the matter of whether any administration officials were engaged in covert action. The Foreign Relations Committee will review administration policy as stated and as executed, as well as the ramifications of these revelations. Let me tell you why I believe this examination is important.

In short, this duplicitous policy has seriously damaged our credibility with our allies. It has also produced one of the most serious threats to our military forces in Bosnia and, according to the administration, the main obstacle to the arm and train program for the Bosnians—I am talking about the presence of Iranian military forces and intelligence officials in Bosnia.

As I have said many, many times on this floor, along with many of my colleagues on the other side, had we lifted the arms embargo and had we provided the weapons, the Bosnians could have defended themselves and chances are there would not have been any American troops there now, and we would have had a peace agreement sooner and on better terms for the Bosnians. And most likely, as I said, we would not have 20,000 Americans in Bosnia at this moment. And finally, had we lifted the arms embargo on Bosnia, the United States would have done the right thing for the right reason. We would have done it openly, and we would have done it honestly.

That is what this examination and these hearings will be about, because I think we owe it to the American people and we owe it to Members of Congress. As far as I know, no one knew about what was happening. We were told we just could not lift the arms embargo because of all the problems that would create with our allies and our credibility at the same time. Apparently some knew it was happening through the back door.

I yield back the remainder of my leader time.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Did the Senator want to comment on the Moynihan amendment?

Mr. HOLLINGS. I ask unanimous consent that I be given 10 minutes as if in morning business to respond to the majority leader on the issue of broadcast spectrum auctions.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from South Carolina is recognized.

Mr. HOLLINGS. I thank the distinguished leaders of this measure.

TELECOMMUNICATIONS

Mr. HOLLINGS. Mr. President, I must take exception with the statements by the distinguished majority leader. What really occurred 5 years ago is that hearings both in our Committee of Commerce, which I was chairing at the time, and the Federal Communications Commission as to how to bring about high-definition television, going from the analog signal to the high-definition digital television signal—similar to how we went earlier from AM radio to FM radio and we gave away the licenses, and now most of the radio audience predominates in FM.

On this particular score, there are all kinds of problems. First, there is a problem faced by the local broadcasters. To change over from their analog signal to a digital signal is going to be a cost of somewhere between $2 and $10 million. They are not going to put that $2 to $10 million in changing over unless and until there are digital TV sets. The people who are going to purchase the sets are not going to purchase them until the broadcasters bring about digital television.

So working as the public body in the public interest, we reasoned, after these hearings, that there ought to be a transition to change over, to certainly not penalize established free broadcasts in America—it is not a gift, if you please, but, on the contrary, we need to get them to switch from analog to digital and then we'll take the one that they relinquished and auction it. Nobody is getting anything free. It is necessary to bring about that particular switch from the analog to the high-definition television that will truly benefit consumers.

Chairman Sikes, a Republican chairman of the Federal Communications Commission, enunciated this policy. We had 2 years of hearings in our Commerce Committee. We, in a bipartisan fashion, got the movement going with respect to the broadcasters. You have to sort of sell this idea to move them along.

We are trying now to get the criteria for high-definition television agreed upon by all the technical entities that are interested in this particular move. And the Federal Communications Commission is having hearings to determine the technology that should be used. Once that is done this spring, we hope to move forward and, as best we can, accelerate this improved television viewing for the American public.

And now this thing about balancing the budget, this crowd is running up $1 billion a day in interest costs. You raise spending $1 billion a day while we are talking that you do not want to pay for. I put in a value-added tax bill to pay for it, but nobody else around here wants to pay for it—talking about paying the bills and balancing the budget. But right is right and fair is fair.

The broadcasters have not been going around soliciting or asking for a giveaway of billions of dollars or whatever it is. We have to maintain free over-the-air broadcasting. They used to have almost 100 percent of the broadcast audience. They are down to 60 percent. Cable television and direct broadcast satellites are taking over and everything of that kind. In a very real sense, we are very careful about the regular analog stations that you and I watch every day and every evening.

So the air should be clear. You can have 100 hearings. You can go back on it. You can come up with the sale and make a lot of money, but the American public is not going to be served. Auctioning the second channel would only disadvantage the American consumer. You should not reverse a well-studied and well-thought-out policy by a Republican administration and a Democratic administration, a Republican committee and a Democratic committee. We should stick with the FCC plan—it is the best way to ensure free over-the-air television and the taxpayer will benefit when the original channel is auctioned.

This peripheral attack about I am Horatio at the bridge here and I am standing up and I am protecting the public, and we want to pay the bills and we want to balance the budget, is all hogwash. If you want to pay bills, then I say to the Senator, it is in your Finance Committee. Pull it out of the Finance Committee and let's vote up and down, because you cannot balance the budget without increasing taxes.

I will make my challenge one more time. I make it time and again. I would be delighted to jump off the Capitol dome if you can give me a 7-year balanced budget without increasing taxes. You cannot do it. I gave that to the distinguished chairman of the Budget Committee, and he did not do it. That was over a year ago. And I am still ready to jump.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah has 15 minutes.

Mr. FORD. Mr. President, I ask unanimous consent I might have 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator from Kentucky has 2 minutes.

Mr. FORD. I thank the Chair, and I thank my friend from Utah.

GAGGING OF A SENATOR

Mr. FORD. Mr. President, yesterday the Senator from North Dakota was prevented from speaking on the Senate floor. They recessed the Senate in order to prevent him from speaking. I know the majority leader has certain privileges that other Senators do not have—leader's time, recognized first, and all that. But I think the majority leader made a mistake in trying to gag a colleague yesterday.

We are here, expecting to vote every 30 minutes, on an amendment or reconsideration—recommittal on this terrorism bill, and the majority leader comes in, as is his right—I do not say he did not have the right—but we talk about telecommunications and we talk about Bosnia. Yet, the Senator from North Dakota could not talk about Social Security and balancing the budget.

So, I want the Senate to know that some of us observe that. I believe the majority leader made a mistake. I think he realized he made a mistake. And we should not attempt to gag anyone here on the Senate floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. HATCH. Mr. President, for my friend from New York, I will just move to table this amendment. But I think, because he approaches things in such a scholarly manner, I should take just a few minutes to explain why we cannot accept his amendment and why I will move to table.

Mr. President, I think that part of the disagreement we have with respect to the appropriate standard of review in habeas petitions involves differing visions as to the proper role of habeas review.

Federal habeas review takes place only after there has been a trial, direct review by a State appellate court, a second review by a State supreme court, and than a petition to the U.S. Supreme Court. Thus we have a trial and at least three levels of appellate review. In a capital case, the petitioner often files a clemency petition, so the State executive branch also has an opportunity to review the case.

But that is not the end. In virtually every State, a postconviction collateral proceeding exists. In other words, the prisoner can file a habeas corpus petition in State court. That petition is routinely subject to appellate review by an intermediate court and the State supreme court. The prisoner may then file a second petition in the U.S. Supreme Court, and may also, of course, seek a second review by the Governor.

So, after conviction, we have at least six levels of review by State courts and two rounds of review—at least in capital cases—by the State executive. Contrary to the impression that may be left by some of my colleagues, Federal habeas review does not take place until well after conviction and numerous rounds of direct and collateral review.

The Supreme Court has clearly held that habeas review is not an essential prerequisite to conviction. Indeed, this very term, the Supreme Court reaffirmed the principle that the Constitution does not even require direct review as a prerequisite for a valid conviction.

Now that we have set the proper context for this debate, let us just look at the proposed standard. Under the standard contained in the bill, Federal courts would be required to defer to the determinations of State courts unless the State court's decision was ''contrary to, or involved an unreasonable application of, clearly established federal law, as determined by the Supreme Court . . . .''

This is a wholly appropriate standard. It enables the Federal court to overturn State court decisions that clearly contravene Federal law. Indeed, this standard essentially gives the Federal court the authority to review, de novo, whether the State court decided the claim in contravention of Federal law.

Moreover, the review standard proposed allows the Federal courts to review State court decisions that improperly apply clearly established Federal law. In other words, if the State court unreasonably applied Federal laws, its determination is subject to review by the Federal courts.

What does this mean? It means that if the State court reasonably applied Federal law, its decision must be upheld. Why is this a problematic standard? After all, Federal habeas review exists to correct fundamental defects in the law. After the State court

has reasonably applied Federal law, it is hard to say that a fundamental defect exists.

The Supreme Court, in Harlow versus Fitzgerald, has held that if the police officers' conduct was reasonable, no claim for damages under Bivens can be maintained. In Leon versus United States, the Supreme Court held that if the police officers' conduct in conducting a search was reasonable, no fourth amendment violation would obtain and the Court could not order suppression of evidence obtained as a result of the search. The Supreme Court has repeatedly endorsed the principal that no remedy is available where the Government acts reasonably.

Why then, given this preference for reasonableness in the law, should we empower a Federal court to reverse a State court's reasonable application of Federal law to the facts?

Our proposed standard simply ends the improper review of State court decisions. After all, State courts are required to uphold the Constitution and to faithfully apply Federal laws. There is simply no reason that Federal courts should have the ability to virtually retry cases that have been properly adjudicated by our State courts.

I think that once we cut away the camouflage surrounding the arguments against our proposed habeas reform package, we find two things: First, a disagreement with the death penalty as a punishment. That is a legitimate disagreement. I, personally, am in favor of the death penalty, but I would very sparingly use it. But there are others who very sincerely believe that the death penalty is wrong. I can understand that. Many people have moral or ethical concerns about the death penalty, and many more in this country, the vast majority, believe we should have a death penalty for the most heinous murders and crimes in our society. I am appreciative, though, and sensitive to the concerns of others who feel otherwise. Many of my colleagues have heartfelt views on this matter, and I respect the sincerity of those views.

But if the arguments against meaningful habeas reform are in reality arguments against the death penalty, then let us debate the efficacy of the death penalty. Let us decide whether death is the appropriate sanction for people like those who murdered the 168 individuals in Oklahoma City. I am prepared to debate the point. But let us not disguise this argument.

The second argument I think my friends are making is that they fundamentally distrust the decisions of State courts. They believe that State courts are somehow incompetent to try important cases. They believe that State juries are somehow not as good as Federal juries; that State court judges are not as qualified as Federal judges; that State prosecutors and defense attorneys are not as adept as their Federal counterparts. Although I generally disagree with this argument, I can understand it. I can debate it. I can argue about the merits of having State criminal justice systems at all. I can debate the issue of whether something magical happens when a State court judge becomes a Federal judge. But if this is what really concerns the opponents to the habeas reform, then let us debate the point straight up. We should not allow this debate to be derailed.

My good friend, the Senator from New York, referred to the Great Writ, which is part of the Constitution. He need not fear for the Great Writ, if this proposal is enacted, in other words, if our bill is enacted. The Great Writ of Habeas Corpus contained in the Constitution applied to only two circumstances: No. 1, to challenge an illegal imprisonment before trial; and, No. 2, to determine whether the trial court had jurisdiction to hear the case.

The habeas corpus we are reforming is the statutory form of habeas corpus. There are some in this body who oppose such reform. I believe they are motivated in part, in major part, by their desire to stop the death penalty or to oppose the death penalty. I can understand that position, although I disagree with it, and I think the vast majority of Americans disagree with it.

I believe convicted killers should be punished, and the particularly heinous killings ought to be punished with the death penalty. I think the survivors and family, the victims of this type of heinous murder, have a right to see that those who killed their loved ones are justly punished. That is why we have to pass this provision. It is long overdue.

To me, and I think to many others, almost everybody in law enforcement today, the habeas corpus provision that we have in this bill is a good one. The standard is a good one. The deference to State law is good, because it just means that we defer to them if they have properly applied Federal law. We should not give some judge who hates the death penalty a right to disrupt that whole process when there is no legal justification for doing so. Frankly, we have allowed the procedural justifications to exist for far too long and that is what this is all about.

So, having said that, I have letters from all kinds of law enforcement organizations, including some organizations that have fought for civil liberties all of their existence, that support our habeas corpus reform because it is time to have that in law. It is time to get rid of the charade. They support the habeas corpus reform more than any—or the death penalty reform, more than any other provision in this bill, although there are many good provisions in this bill.

Having said all that, I am prepared to yield back the remainder of my time, and, on behalf of Senator DOLE and myself, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ABRAHAM). Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, might I ask for 30 seconds to thank my friend and respond?

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I thank him for his thoughtful, careful response. I would like to make the point that my concern is not with the death penalty but with habeas corpus itself. I have had a long experience, as the manager has had, with problems of terrorism. As I said a moment ago, the only time the terrorists ever win is when they begin to make you change your own fundamental political and judicial processes, and that is what I fear this will do. It is of some relief to hear the distinguished manager's statement that the Great Writ will remain substantially intact.

Mr. HATCH. Mr. President, if I can have 30 seconds. The Great Writ will not be affected by this one bit. I appreciate his concerns, and I believe he will find this provision will help us in fighting violent criminals.

So I move to table the motion. I believe we have the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to recommit.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The PRESIDING OFFICER (Mr. INHOFE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 35, as follows:

[Rollcall Vote No. 66 Leg.]

YEAS—64

Abraham	Gorton	Murkowski
Ashcroft	Graham	Nickles
Baucus	Gramm	Nunn
Bennett	Grams	Pressler
Bond	Grassley	Reid
Brown	Gregg	Robb
Bryan	Hatch	Rockefeller
Burns	Hatfield	Roth
Campbell	Helms	Santorum
Chafee	Hollings	Shelby
Coats	Hutchison	Simpson
Cochran	Inhofe	Smith
Coverdell	Jeffords	Snowe
Craig	Johnston	Specter
D'Amato	Kassebaum	Stevens
DeWine	Kempthorne	Thomas
Dole	Kyl	Thompson
Domenici	Lieberman	Thurmond
Faircloth	Lott	Warner
Feinstein	Lugar	Wyden
Ford	McCain	
Frist	McConnell	

NAYS—35

Akaka	Daschle	Kerrey
Biden	Dodd	Kerry
Bingaman	Dorgan	Kohl
Boxer	Exon	Lautenberg
Bradley	Feingold	Leahy
Breaux	Glenn	Levin
Bumpers	Harkin	Mikulski
Byrd	Heflin	Moseley-Braun
Cohen	Inouye	Moynihan
Conrad	Kennedy	

Murray	Pryor	Simon
Pell	Sarbanes	Wellstone

NOT VOTING—1

Mack

So the motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, I move to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following language to prohibit the distribution of information relating to explosive materials for a criminal purposes.

I send the motion to the desk.

The motion is as follows:

Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:

SEC. . PROHIBITION ON DISTRIBUTION OF INFORMATION RELATING TO EXPLOSIVE MATERIALS FOR A CRIMINAL PURPOSE.

(a) Section 842 of title 18, United States Code, is amended by adding at the end the following new subsection:

''(1) It shall be unlawful for any person to teach or demonstrate the making of explosive materials, or to distribute by any means information pertaining to, in whole or in part, the manufacture of explosive materials, if the person intends or knows, that such explosive materials or information will be used for, or in furtherance of, an activity that constitutes a Federal criminal offense or a criminal purpose affecting interstate commerce.''.

(b) Section 844 of title 18, United States Code, is amended by designating subsection (a) as subsection (a)(1) and by adding the following new subsection:

''(a)(2) Any person who violates subsection (1) of section 842 of this chapter shall be fined under this title or imprisoned not more than twenty years, or both.''.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield myself such time as I may use within the limit of the time I have.

This provision is very straightforward and simple. It is beyond me why it was taken out of the Senate version of the language that was sent to the House.

I have heard many colleagues stand up on the floor here and rail against pornography on the Internet, and for good reason. Even when we thought we had corrected the language that Senator EXON introduced to comport with the first amendment, I still hear in my State, and I hear of people writing about how so and so is promoting pornography on the Internet because they will not ban pornography on the Internet.

Yet, in the bill, we came along—all of us here—and the genesis of this came from Senator FEINSTEIN, when it was initially offered. The majority leader, Senator HATCH, and I had some concerns with this, and we thought the language to ban teaching people how to make bombs on the Internet or engage in terrorist activities on the Internet might violate the first amendment. Senators DOLE, HATCH, and I worked to tighten the language and came up with language that was tough and true to civil liberties. It was accepted by unanimous consent.

We have all heard about the bone-chilling information making its way over the Internet, about explicit instructions about how to detonate pipe bombs and even, if you can believe it, baby food bombs. Senator FEINSTEIN quoted an Internet posting that detailed how to build and explode one of these things, which concludes that ''If the explosion don't get'em, the glass will. If the glass don't get'em, the nails will.''

I would like to give you a couple of illustrations of the kinds of things that come across the Internet. This is one I have in my hand which was downloaded. It said, ''Baby food bombs by War Master.'' And this is actually downloaded off the Internet. It says:

These simple, powerful bombs are not very well known, even though all of the materials can be obtained by anyone (including minors). These things are so—

I will delete a word because it is an obscenity.

powerful that they can destroy a CAR. The explosion can actually twist and mangle the frame. They are extremely deadly and can very easily kill you and blow the side of a house out if you mess up while building it. Here is how they work.

This is on the Internet now. It says:

Go to Sports Authority or Herman's Sport Shop and buy shotgun shells. It is by the hunting section. At the Sports Authority that I go to you can actually buy shotgun shells without a parent or an adult. They don't keep it behind the glass counter, or anything like that. It is $2.96 for 25 shells.

And then it says:

Now for the hard part. You must cut open the plastic housing of the bullet to get to the sweet nectar that is the gun powder. The place where you can cut is CRUCIAL. It means a difference between it blowing up in your face or not.

Then there is a diagram, which is shown as to how to do that on the Internet. Then it says:

You must not make the cut directly where the gun powder is, or it will explode. You cut it where the pellets are.

And then it goes through this in detail. And then it gets to the end, and it says:

Did I mention that this is also highly illegal? Unimportant stuff that is cool to know.

And then it rates shotgun shells by two numbers, gauge, pellet size, and goes into great detail. It is like building an erector set. It does it in detail.

So what Senators DOLE and HATCH and I did, we said you should not be able to do this, but we have a first amendment problem, possibly. So we added a provision that says that you have to have the intent, when you are teaching people how to do this, that the person using it is using it for the purpose of doing harm.

So it seems to me that this is pretty straightforward. Granted, I want to stop pornography on the Internet. I think pornography does harm to the minds of the people who observe it, particularly young people. But if that does harm, how much harm is done by teaching a 15-year-old kid, a 12-year-old kid, or a 20-year-old person, with great detail, how to build a baby food bomb, or how to build an automatic particle explosion provision, or how to build light bulb bombs.

It says:

An automatic reaction to walking into a dark room is to turn on the light. This can be fatal if a light-bulb bomb has been placed in the overhead light socket. A light-bulb bomb is surprisingly easy to make. It also comes with its own initiator and electric ignition system. On some light-bulbs, the light-bulb glass can be removed from the metal base by heating the base of the light bulb in a glass flame, such as that of a blowtorch and a gas stove.

And so on and so forth. It goes on to explain how if you attach a plastic back to the light bulb when you remove the glass part but leave the filament and attach it and tape it there, when someone comes in and turns on the light, it blows up the room. Or, if you want to just play a prank, you could put odorous, smelling materials in the bag. It would blow up the bag. But you can put anything in it, and it blows it up.

We said in the language we passed that it shall be unlawful for any person to teach or demonstrate the making of explosive materials, or to distribute by any means information pertaining to, in whole or in part, the manufacture of explosive materials if the person intends or knows that such explosive material, or information will be used for, or in the furtherance of, activity that constitutes a Federal criminal offense, or a criminal purpose affecting interstate commerce. And the House took it out. The House removed it.

I want to say to all of you who are going to probably vote down my putting this back in, I want to hear you explain to your folks back home when a commercial is run on your television station that Senator Jones or Senator whoever voted against prohibiting on the Internet explicit directions how to make a bomb knowing that the person intends to use it. I want to hear your

explanation of that. I want to be there when you explain that one.

Let me read the statute again. It says: It shall be unlawful for a person to teach or demonstrate, et cetera, if the person intends or knows that such explosive material or information will be used for, or in the furtherance of, activity that constitutes a Federal crime. ''Knows or intends'' is a pretty a high standard falling, in my view, and in the view of constitutional scholars, well within our first amendment privileges. I just think this is crazy.

Let me go on just a few more moments, and then I will stop. The provision is pretty straightforward. If you are one of the guys who has made a name for himself by bringing manifestoes like ''The Terrorist Handbook'' or ''How to Kill With Joy,'' which literally are on the Internet, and if someone comes to you and says, ''Tomorrow morning a group of police officers are going to be meeting at the Fifth Street precinct, and I want to blow them up,'' and if you say to them, ''Here, let me tell you how to make a bomb,'' arguably at that point the police can get you on a conspiracy charge. That is possible. That is possible. But if you just know what they are about, you see them all out there in a car, you look down and see that they have this plan, and you go ahead and tell them how to make a bomb, it is not a violation of the law to teach them how to make the bomb. Is not that incredible?

Last June, all of us in this body agreed to this. I hope we will agree to it again because let me tell you, if this will kill the bill, as I am sure my colleague from Utah is going to say it will, I want to hear—if this is the only change in the bill—I want to see those House Members stand up and say, ''The reason I am not voting for this terrorist legislation is because I want to continue to allow people to teach people how to make bombs,'' knowing that they are going to be used to commit a crime or kill someone, ''And that is why I am voting against this bill,'' because it now contains a provision that prohibits that, I think maybe this is time to face down some of those people over there. Let them stand up and tell all of our colleagues around the Nation, and tell the parents around the Nation, that that is the reason they are voting against the terrorism bill.

I retain the remainder of my time and yield the floor.

Mr. HATCH. Mr. President, I will only take a couple of minutes, and then I am prepared to yield back the remainder of my time.

The constitution of conspiracy to use an explosive to commit a felony is already provided for in precedent law, 18 U.S.C. 844(h). Thus, anyone who trains a terrorist to make a bomb as part of such a conspiracy would certainly be prosecuted under current law.

I want to make it clear that I do not entirely disagree with Senator BIDEN's position. However, we have been facing down this problem for a year now. Friday is the day where we commemorate this awful tragedy. Frankly, we have gone through every detail in this bill, and we have not been able to get it exactly to Senator BIDEN's desire, or even mine, but this is it. This is the bill. And anything short of this is going to amount to losing the bill.

Like I said, I do not entirely disagree with Senator BIDEN's position. However, there are many who have raised first amendment and intellectual property concerns about this provision. They are legitimate concerns. As the chairman of the Judiciary Committee, which handles all of the patents, copyrights, and trademark issues, I can say they are legitimate. So, consequently, we have included a study in the bill to ensure that we can criminalize efforts to distribute bombmaking materials without impinging upon constitutional freedoms. Besides, there is little doubt that anyone who knowingly transmits information to use explosives to commit a felony is already subject to Federal law; 18 U.S.C. 844(h) does that.

So, frankly, I would like to accommodate the distinguished Senator from Delaware, but we tried to and we have been unable to accommodate him. Frankly, I contend that any return to the conference will kill this bill.

I am prepared to yield. I apologize for not being able to do more. But we think we have brought this bill back to a very, very strong level, and we have had a lot of cooperation with Members of the House in doing so and the leadership on the Judiciary Committee—both Democrats and Republicans.

Yes, it is not a bill that any one of us in here thinks is totally what we want, but I think the vast majority of us will believe that it is a pretty darned good bill that is going to make a real dent in terrorist activities in the future and will, I think, correct some inequities of terrorist activities in the past.

So I am prepared to yield the remainder of my time.

Mr. BIDEN. Mr. President, let me respond about this conspiracy. I acknowledge that, if, in fact, there is an agreement with the bombmaker, the bomb teacher, and the bomb user, and they could prove that, then they can get the bomb teacher as part of this conspiracy. That is not how this happens. The way it happens is someone walks in telling me—and looking like they are something out of a movie—telling me, and I do not know them, that they want to learn how to make a fertilizer bomb. ''I want to learn how to make a bomb out of baby food, a baby-food bomb, or a light-bulb bomb''—that is all they tell me, and I do not know them from Adam. I sit down and tell them how to make the bomb. The ability to prove that there was a conspiracy to commit a crime requires that there be an ability to be an agreement between the two of us about the crime that was about to be committed.

I am saying it should be a national crime if you intend, or you know the person is about to do something wrong regardless of whether you know what the crime is, what they are going to do with it. Obviously, if a 14-year-old kid comes to you and says, ''By the way, I want to learn how to make a baby-food bomb that has the ability to blow up, has the power, like advertised here, that can bend the frame of a car,'' you are telling me that you have to be able to prove conspiracy. If the guy says, ''I am happy to show you how to make that, just like I can show you how to make a rocket in the field for a science class,'' there is no distinction. And under this law, there is no conspiracy.

You vote against this, and it means someone can show a kid how to do that and not have to wonder why this kid is asking me how to make a powerful bomb that can bend the frame of a car. You cannot prove conspiracy. But it should be wrong. It should be wrong. And how any of you can vote here and say that is not wrong is beyond me.

I think it is about time we make some of those people hiding over in the House side stand up. Make them stand up.

I want to be there when some punk on the New York subway decides he wants a baby food bomb just for the kicks of it, just to see what it is like, and sets it off. You mean to tell me when we find the guy who taught him how to do it, we should say, ''No problem; you didn't do anything wrong. It's OK; no problem.'' I think we should throw the sucker in jail.

I cannot understand how you all can vote against this. I understand the rationale. The rationale in part is 35 House Members, or 75 House Members or 99 House Members will turn down the whole bill because of this. I do not believe for 1 second that if this single provision were added to the bill, with all the stuff they have on habeas corpus they want, with all the other stuff they say they want, they are going to vote down this bill because now you are going to be able to arrest some wacko teaching our kids how to make bombs when you know they are going to use them. I cannot believe that. I think we are being cowardly in our willingness to confront whoever the cowards are over there who will not allow us to protect ourselves. This is crazy.

I yield the floor. I yield back my time. I am ready to vote.

The PRESIDING OFFICER (Mr. INHOFE). The Senator's time has expired.

Mr. BIDEN. That is a good reason to do it.

Mr. HATCH. Mr. President, I hear the Senator. I do really think, though, we ought to consider winding this up. Personally, I think there comes a time when enough is enough on these motions to recommit because what we are trying to do is to get this bill through. Frankly, we have people in the House on both extremes, both the far left and far right, who disagree on some of these things. I do not think it is unreasonable to request a study so that we

look at this matter, consider the first amendment implications and other implications and do it right, although I have some sympathy with what the Senator said.

I am prepared to yield back the remainder of my time, and I move to table.

Mr. BIDEN. Mr. President, I yield myself 20 seconds on the bill.

The PRESIDING OFFICER. The Senator has that right.

Mr. BIDEN. Mr. President, no one asked for a study on pornography. No one asked for that. I did not hear anybody stand up here and say, ''Let's have a study on pornography. I wish to stop pornography on the Internet.'' I did not hear anybody say, ''Let's not do it. Let's have a study.'' When it comes to a bomb, teaching our kids how to make bombs, we want to study it.

Mr. HATCH. Mr. President, like I say, I am sympathetic to what the Senator is trying to do. He knows that. But he also knows that we have gone through this and we have come up with this bill after a year of intensive battling, fighting. And it is not just the conservatives that were there; it is the far left.

We have worked hard on this, and this is the bill we could come up with. Do we want to do something about terrorism or do we want to kill the bill? That is what it comes down to. Frankly, it is not just any one of these things. It could be any one of these things. We have worked it out. It is a good bill, and it will make a difference. It will start fighting terrorism right now. In the end, it seems to me if we can ever get to a final vote on this, we will have something of which virtually everybody who thinks about it will be proud.

So I move to table the motion on behalf of Senator DOLE and myself and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to the motion to table the motion to recommit. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 67 Leg.]

YEAS—51

Abraham	Cohen	Gramm
Ashcroft	Coverdell	Grams
Bennett	Craig	Grassley
Bond	D'Amato	Gregg
Brown	DeWine	Hatch
Burns	Dole	Hatfield
Campbell	Domenici	Helms
Chafee	Faircloth	Hutchison
Coats	Frist	Inhofe
Cochran	Gorton	Jeffords
Kassebaum	Murkowski	Smith
Kempthorne	Nickles	Snowe
Kyl	Pressler	Stevens
Lott	Roth	Thomas
Lugar	Santorum	Thompson
McCain	Shelby	Thurmond
McConnell	Simpson	Warner

NAYS—48

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Reid
Byrd	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Specter
Exon	Leahy	Wellstone
Feingold	Levin	Wyden

NOT VOTING—1

Mack

So the motion to lay on the table the motion to recommit was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

CLOTURE VOTE VITIATED—SENATE RESOLUTION 227

Mr. DOLE. Mr. President, I ask unanimous consent that the cloture vote with respect to the Special Committee to Investigate Whitewater be vitiated.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS

Mr. DOLE. Mr. President, I send a resolution to the desk, and I ask unanimous consent that the Senate turn to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 246) to authorize the use of additional funds for salaries and expenses of the Special Committee to Investigate Whitewater Development Corporation and related matters, and for other purposes.

The Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, the Senate is about to reauthorize the special committee's operations for a specific, limited period.

It is my understanding, and that of all my colleagues on this side of the aisle, that the special committee will conclude its hearing schedule no later than June 14, 1996, and further, that no other committee of the Senate intends to hold hearings on Whitewater-related matters thereafter. I have also discussed with the majority leader and will commit to him that it is not the intention of Members on this side of the aisle to object to the special committee meeting under the provisions of rule XXVI nor to obstruct the special committee's progress, thereby preventing them from completing their work pursuant to the latest deadlines outlined in this resolution.

It is the further understanding on this side that the report of the special committee, required to be submitted to the Senate pursuant to Senate Resolution 120, will be submitted no later than the close of business on June 17, 1996.

It is also our understanding that the majority leader does not believe any amendments, motions, or resolutions will be offered in the Senate regarding further extensions of the operations of the special committee beyond June 17, 1996.

Mr. President, I ask the distinguished majority leader whether I have correctly stated the situation as he now sees it?

Mr. DOLE. The Senator has correctly stated the understandings on both sides of the aisle as I see it at this time.

Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 246) was agreed to, as follows:

S. RES. 246

SECTION 1. FUNDS FOR SALARIES AND EXPENSES OF SPECIAL COMMITTEE.

There shall be made available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations, for use not later than June 17, 1996, by the Special Committee to Investigate Whitewater Development Corporation and Related Matters (hereafter in this Resolution referred to as the ''special committee''), established by Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995) to carry out the investigation, study, and hearings authorized by that Senate Resolution—

(1) a sum equal to not more than $450,000.

(A) for payment of salaries and other expenses of the special committee; and

(B) not more than $350,000 of which may be used by the special committee for the procurement of the services of individual consultants or organizations thereof; and

(2) such additional sums as may be necessary for agency contributions related to the compensation of employees of the special committee.

SEC. 2. TERMINATION OF THE SPECIAL COMMITTEE.

(a) HEARINGS.—Not later than June 14, 1996, the special committee shall complete the investigation, study, and hearings authorized by Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995).

(b) REPORT.—Not later than June 17, 1996, the special committee shall submit to the Senate the final public reported required by section 9(b) of Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995) on the results of the investigation, study, and hearings conducted pursuant to that Resolution.

Mr. DOLE. Mr. President, I understand Senator D'AMATO and Senator SARBANES may want to speak briefly.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let me just take several moments to thank the distinguished leaders, the majority leader and the minority leader, and a number of my colleagues on the Banking Committee on both sides of the aisle for helping us arrive at an agreement that will permit the business of the Senate to be conducted in an orderly, thoughtful, thorough fashion so that we can complete the work of the Whitewater Committee in a timely manner, recognizing that we are fast approaching—we are already in—the political season, but that season becomes even more and more political as the days and weeks move ahead.

It is my hope that working together, as we have in most of our undertakings on the Banking Committee and on the special Whitewater Committee, we can handle the matters that come before us, even those that may be somewhat contentious, in a bipartisan manner.

Ours was to get the facts. Ours is to report back to the Senate of the United States as best we can. Ours is not to prejudge. Ours is not to preclude. But ours is to be the searcher of facts, again, given the limitations that exist. It does not pay for us to go into what the limitations are. I must say that there are those areas beyond the ability of the Senate and its investigation to control or to deal with as it relates to time, availability of witnesses, et cetera.

So, recognizing those, we may never be able to satisfactorily complete the job of getting all of the facts or determining all of them, recognizing the limitations that we have. But I think if we do the best we possibly can, if we work together in the spirit of people who are willing to understand each other's problems, the limitations that we do have on us, ours will be an important task, it will not be an easy task, but it will be one that we can attempt to fulfill and meet the mandates of the Senate and, indeed, of the Constitution and, more importantly, of our people. We are going to be thorough, comprehensive, but yet fair.

Let me conclude by saying that I hope that we can finish by the 14th of June. That is the time which we have spelled out. I believe that reasonably, if we see that there are matters that are yet to be addressed that are important, that are substantial, that we can come to an accommodation to deal with that. It is my hope, though, that we will be able to deal with this, conclude the public hearings by the 14th of June, and thereafter have our report within the 3 days that we have provided.

I believe this is the best manner in which to proceed, less in the way of contention. I certainly hope—as my colleagues have, my Democratic colleagues have helped and assisted in arriving at this agreement—that they will work with us. We pledge to work with them to get all of those concerns, all of those people that we wish to get evidence from, testimony from, to be as cooperative and to use the good offices of my colleagues on the Democratic side to accomplish this goal.

So I want to commend both leaders. I want to thank Senator SARBANES, Senator DODD, the other members, the Republican members, of the committee for being patient, for being thoughtful, and doing a very difficult process. I believe that the agreement that we have hammered out is in the best interest of the Senate and, more importantly, the people of the United States. I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, let me say that the resolution which has just been passed represents a great deal of effort over a considerable period of time and obviously encompassed accommodations and adjustments on both sides and from many parties. I believe the resolution provides us now with the framework for the completion of the work of the special committee on Whitewater. The resolution requires the submission of the special committee's final public report by the 17th of June, and provides a budget to carry forward this work which we believe is adequate for the task. It provides for the hearings to end by the 14th of June.

I must say, I hope, as the chairman has stated, that we are able to conduct through this period of time fair and thorough and objective hearings.

The chairman is right, an effort has been made to do that in the past, I think with a fair amount of success, although as he observed we have had on occasion perhaps strayed off that path somewhat. I hope we do not, as we move forward now from today into the middle of June.

Many people contributed to making this possible. I want to recognize the contributions of the colleagues on my side, Senators DODD and BRYAN and BOXER and MURRAY and MOSELEY-BRAUN and KERRY and SIMON and, of course, the chairman and his colleagues who have worked on this. And, of course, the two leaders have been involved to some extent in order to bring this matter to this point.

The committee back in January, pursuant to the previous resolution, was required to report to the Senate about whether additional time was needed. At the time, there was a difference of opinion about that. The majority said additional time was needed; the minority felt not. We had a sharp difference about that. The minority leader made a proposition for an extension. The majority, of course, had a resolution before us for an unlimited extension. This, of course, is not an unlimited extension, and I think it is very important to recognize that.

I simply close by saying that I hope in the weeks to come, now as we approach the 17th of June for the submission of the final report, that we will be able to move ahead expeditiously with our work. It is the intention of the minority to seek to work in a constructive way with the majority to carry out these hearings in a responsible manner, not really to explore allegations, not to make allegations, but to carry out the kind of hearings for which the Senate can take some measure of comfort that it has been done according to appropriate standards. Mr. President, I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I want to join my colleague from Maryland in thanking our colleague from New York, the chairman of the committee, and others for putting this together. I want to commend as well my colleague from Maryland, who has done a very fine job in helping to fashion this resolution. I join with him and the chairman of the committee and others in hoping that we will be able now over the next several weeks to conduct a thorough and complete and fair investigation.

I will say, Mr. President, there are many people, of course, on this side of the aisle who, frankly, in fact, may have voted, if there were a recorded vote, may have voted even against that resolution, who felt that we should have wrapped this up and it is over with. So there is no recorded vote on this, and apparently there will be none. So there will be no actual recording, but Members can obviously speak for themselves. I would have voted for this resolution if there was a recorded vote. I want my colleagues to know that.

It would not be any great surprise to my colleague from New York if I say to him, Mr. President, that I would do so with great reluctance because I, frankly, would have liked to wrap this up earlier. So I read this and see this as a determination now to conclude our work by the 14th of June, with a couple extra days to get our report done. That is our goal and our determination. Certainly our colleague from New York has made it clear to us that that is his intent as well. We respect that and take that. The distinguished majority leader has indicated that as well.

So we have a lot of work, I know, to do in the coming weeks. But we are confident we can do it and bring this to a conclusion. It has been a long process, Mr. President. I think, as someone pointed out, it may be the longest set of hearings in the history of the Congress on a particular matter like this. Someone may challenge that, but certainly in modern Senate history, I think, the longest record, the longest set of hearings, at great cost. I am not speaking now exclusively of our work here, but the overall investigation. So the American public, I think, wants us to complete our work on this.

Also, I point out that because this is a special committee but made up primarily of members of the Banking Committee—of course, the chairman is

the chairman of the Banking Committee as well—there is a great deal of work we have to do on the Banking Committee before this Congress ends. Our colleague from California has a number of issues that she is interested in. Senator MURRAY, from the State of Washington, has mentioned several issues she is interested in, along with our colleague from Maryland and others.

So our sincere hope is that not only will we get this done, I say to our colleagues—I know many are asking the question: Are you really going to get your work done? I am saying here we are going to have this done on June 14, a report several days afterward, and our Banking Committee is also going to get its work done on other issues that have been raised as well that should be addressed.

With that, Mr. President, I commend my colleague from New York, my colleague from Maryland, our ranking member, for bringing this to a final conclusion. We will have our work done by June 14.

Mrs. BOXER. Mr. President, I am not going to belabor the points that were made except to add my thanks to my ranking member, Senator SARBANES, and my chairman, Senator D'AMATO, for working this out with the able assistance of many people, particularly Senator DODD.

I have always taken the position as long as there are Senators on the floor making it sound like there are issues that are being covered up or not looked at, it was very important for us to continue, because frankly, I think we have had a sufficient amount of time. We have had more days of hearings than the O.J. Simpson trial. The fact is, this has gone on endlessly.

The people in California, and I cannot speak for the people of Connecticut or the people from Maryland or the people from New York, but I can say those who came to see me in this 2-week break, not one said, ''Senator, the one thing I want you to do when you go back is hold more hearings on Whitewater.'' Not one person. No Republican came up and told me that. They never even mentioned it. They did say, ''Go back and get the job done. Balance the budget. Pass a budget. Do not cut Medicare. Take care of education. Go after the situation in our exports where we have problems with nations who are not treating us fairly.''

I sit on the Banking Committee and we have that jurisdiction. We have not done a thing about the issues that will make life better for the people of this country. It is Whitewater, Whitewater, Whitewater. What do the people think of it? I tell you what they think of it, they think it is a waste of time. They think it is a waste of time. We have a special counsel who has no limit on what he can spend going after the truth on Whitewater. There is no statute of limitations. We had little discussion about that earlier in relation to another bill. This special prosecutor has the world at his fingertips, and yet we have to call up the same felons, the same felons that are spewing forth things against our President, we are going to bring them into the hallowed Halls of the Senate of the United States.

People are smart. The American people get it. This Congress has a bad reputation among the people. They do not think this Congress is doing its job. No wonder. No wonder. So there are a lot of accolades about how great it is that we reached an agreement on this. I say, good, I am glad, because the alternative was having this in the Banking Committee where we would get nothing else done, and waste the time of the Banking Committee.

I have a situation in California where we have a great industry which is the leader in CD's and laser disks. We are losing billions of dollars a year because of China piracy. What are we doing about it in the Banking Committee? Zero—no time. No time. I was encouraged when our chairman said that he agreed with me on this issue, and, yes, he will get that done. Well, that is good. I do not know how we will do it all, but my view has always been as long as there are allegations made on this floor that they have not unturned every stone, that I would vote to continue this, because the last thing I want is for people to think we are not willing to look.

Yes, I would have voted for this, but I have to say I hope we are better in this phase than we have been before, because there were days when we were supposed to have hearings and no one showed up. I am here, and I know there is a lot of comity on the floor today and everybody is thrilled. I am not so thrilled. Yes, I will vote for it, but I think it is a waste of time. It is political. Everyone in the country knows it is political. They are smart. They know the special prosecutor is out there, and they see Members of the Senate act like prosecutors and staff sitting there like that is their job. If they want to be prosecutors, God bless them, be prosecutors. Do not be a U.S. Senator, and do not come to work for U.S. Senators, because we have other things to do.

What we have to do is make life better for the people. It is embarrassing. It is embarrassing to me that I sit on one of the best committees in the U.S. Senate, and this is what we are going to be doing. I am glad we have an end date of June. We can wrap it up and do our work. I just hope we get back to the business of making life better for the people of our great Nation, because they deserve our attention. There is economic insecurity out there. There are things we can do in the Banking Committee to get to those issues. I stand ready to work in a bipartisan way to get to those issues and to move these hearings along.

I also have to say just because I am straight from the shoulder about this, that when we have witnesses up there who are convicted felons, I hope my colleagues on the other side of the aisle will not be surprised if I get a little tough in my questions. I thank the Senator.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I will not delay the Senate. I know that Members would like to get back to the Terrorism Prevention Act.

I would like the record to reflect that I did vote against the establishment of the special committee to investigate Whitewater. I think it was not a proper function for the Senate this election year. I certainly would like the RECORD to reflect had there been a rollcall vote on this resolution extending the jurisdiction of that special committee, I would also vote against this.

I yield the floor.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me. I will speak only a very few moments. I know we want to get on with the business of the Senate.

I want to first commend my colleague, Senator SARBANES, the ranking member of the committee, and I want to commend the chairman of the committee for ultimately working out an agreement. Maybe this can be a solution by which we might proceed in an orderly way to end the quest to find facts, information, and to educate ourselves on the so-called issue of Whitewater.

Mr. President, if we had brought this issue to a vote, like my friend from New Mexico, I probably would have voted ''no''. I probably would have voted ''no'' on this resolution, Mr. President, simply because I think that there are enough forces out there occupying the time and resources of our Government and our judicial system to amply comply with the intent of this overall investigation.

These hearings have already gone, Mr. President, as my friend from California has stated, longer than the O.J. Simpson trial. Longer, I think, in many instances that the Iran-Contra trial. These were national issues of great importance. This is an issue of some importance, but it is of importance only because it affects what we know as a Whitewater issue. It relates to a matter that took place 12 or 15 years ago in the State of Arkansas. How important is it as it relates to the other issues that we have to defend and debate and concern ourselves with at this time? That is the question.

I do not feel that the Senate, nor this committee, should further utilize the resources of our Government to continue bringing witnesses up here from the State of Arkansas, week after week, day after day, and month after month, simply because it is a politically motivated endeavor. Mr. President, that is what it is. It is a politically motivated endeavor.

Yesterday, the distinguished chairman of the Banking Committee or the Whitewater Committee, if you might

call it that, issued a press release in which he basically said if he did not get his way, if he did not have his way and if the Senate did not allow the Whitewater committee to continue—then he would use the Banking Committee to usurp the powers of the Whitewater Committee. He was then going to seek the authority to have the opportunity to investigate and to subpoena all financial records of every financial institution in the State of Arkansas. from January 1978 until January 20, 1993, when Governor Clinton became President Clinton.

Mr. President, had that occurred—and I am glad it did not—and had the Banking Committee singled out one State, I was going to attempt to amend that resolution, if it was in the form of a resolution, and say, wait a minute, let us not just apply this to one State, Arkansas. Do not let this be the first time that a committee of the U.S. Senate has declared war on one of the States in this Union. Let us make it apply to New York, to all the banks and all the banking institutions, to Wall Street, and to the stock exchange. That has not been the prettiest picture for the last 15 to 18 years. Let us investigate them. Let us extend this authority there and see how far that resolution would have gotten.

Well, Mr. President, of course, I am using a little bit of exaggeration. But I want to state that, for 15 years, had the Banking Committee had that authority to subpoena any and all records and any and all documents from all financial institutions in our State, it would have been a matter, I think, of egregious overreach of this body and, certainly, of the U.S. Government.

Mr. President, further, I would like to state that—and I hope the Chair will pay close attention to this, as the distinguished Senator always does—we have recently asked the Federal Bureau of Investigation to do a little workup of the amount of resources that it has committed to the Whitewater issue. I was astounded and shocked when I found out what the five major ongoing investigations by the Federal Bureau of Investigation are right now. One is Oklahoma City, which takes priority. That is where most of the resources have been expended. No. 2, the Unabomber. Well, it has paid off because we may have caught the Unabomber. That is a lot of resources, and that is a proper use of the FBI. The third is another bank scandal. I can supply what State that is in for the RECORD. Evidently, a lot of FBI resources are being allocated to that particular bank scandal. But the fourth in priority of all the investigations where the FBI is allocating its major resources is—you guessed it—Whitewater. It even surpasses the commitment that we have made to the World Trade Center bombing by terrorists some 2 or 3 years ago. Whitewater has surpassed the use of FBI personnel and financial resources, and we have gone above and beyond those funds expended and agents expended to deal with the World Trade Center bombing of 2 or 3 years ago.

That is unbelievably outrageous. In fact, some $11 million to $12 million of FBI resources have been expended just on Whitewater—$11 million to $12 million of FBI personnel, including 41 agents and 81 support personnel of the Federal Bureau of Investigation are looking at Whitewater events that happened 10, 12, 15 years ago.

Mr. President, it is time, as other speakers have said, to really get our priorities right. I am hopeful that this committee will continue, will move expeditiously, will come to a conclusion, write its report, throw that report at the Congress, and then let us let the people decide what we should do about it.

Finally, I want to say that this morning in the New York Times, finally—finally—under an editorial entitled ''Replacing Kenneth Starr,'' who is basically the special counsel—or what I call the ''special prosecutor'' in the Whitewater matter down in Little Rock. The New York Times has asked for Mr. Starr to be replaced. Why have they asked for Mr. Starr to be replaced, Mr. President? Well, it is very simple. It is because Mr. Starr has conflicts of interest, which are precluding him from presenting a fair image of investigation and of factfinding in the Whitewater matter. Here is the man who is charged with prosecuting and investigating this issue. But here also is the man who has the burden of bearing these conflicts of interest. The New York Times points out this morning in its editorial ''Replacing Kenneth Starr,'' that he is making speeches all over the country, representing controversial clients before the U.S. Supreme Court, representing, perhaps, the national Republican Party, and other groups that have direct conflicts of interest with the fair-mindedness that this hearing and process has to portray.

Mr. President, I ask unanimous consent that this editorial, ''Replacing Kenneth Starr,'' appearing this morning in the New York Times, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 17, 1996]

REPLACING KENNETH STARR

With a Presidential election only six months away, the public needs to have confidence in the fairness, good judgment and unselfish civic purpose of the independent counsel on Whitewater. It is also important that the months of work by a large, expensive staff not be squandered. After listening to Kenneth Starr's narrow, legalistic reasons for his continued representation of wealthy, politically active clients while serving as independent counsel, we have concluded that Mr. Starr is not the person to deliver on those two goals. It is time for him to step aside and let the investigation go forward under a replacement from the senior staff.

Mr. Starr seems defiantly blind to his appearance problems and indifferent to the special obligation he owes to the American people. He and his ethics adviser, Sam Dash, keep pointing out that most of the 16 other people appointed under the independent counsel law have continued to work on private cases. They conveniently ignore the fact that Mr. Starr is one of only two such counsels to be given the task of investigating a sitting President.

''The independent counsel was never expected to become a full-time employee of the Government and leave his or her law firm,'' Mr. Starr told the Federal Bar Association in a haughty speech last week. That could be because never before has a lawyer assigned to investigate high government officials maintained such a conspicuously fast-paced and politically freighted private practice while assuming a major national responsibility.

The cumulative weight of Mr. Starr's conflicts have become so heavy that Mr. Dash, the top lawyer for the old Senate Watergate committee, who is paid $3,200 a week to advise Mr. Starr, defends only the formal legality of Mr. Starr's lucrative moonlighting. The law allows the court-appointed prosecutor to have an outside law practice, but Mr. Dash told Jane Mayer of The New Yorker that he would prefer that Mr. Starr serve full time. What the independent counsel is doing is proper, Mr. Dash argued later, but reasonable people may believe ''there's an odor.''

Mr. Dash is right about the odor, but wrong about the propriety. The independent counsel law was enacted so the public could be assured that the President would not sway Justice Department officials who work for him. But if the counsel refuses to divest himself of his own political and financial baggage, he erases the gain in public confidence that his appointment is expected to solidify.

This page has steadily advocated the continuation of the Whitewater investigation in the belief that the public has the right to know the full facts about the Clinton's business dealings and related matters. But at the very outset, we asked Mr. Starr to step aside because his entanglement with conservative judges cast a shadow over his objectivity. When that did not happen, we urged him to take a leave from his law firm and appoint a deputy to oversee areas of the investigation where he had a clear conflict of interest.

But the number of those conflicts—involving big tobacco, conservative foundations, the Resolution Trust Corporation, the International Paper Company—has grown so great that voters are bound to be confused about the integrity of Mr. Starr's decision on whether to prosecute the Clintons and their close associates.

There was a time when Mr. Starr could have ameliorated such doubt with openness and a sensitivity to his obligation to the American people. That time is past. He needs to honor the work of his staff and the investment of the taxpayers by stepping down.

Mr. PRYOR. Mr. President, also, let me state that in this New Yorker magazine, dated April 22, I believe—I do not have my glasses with me—there is a splendid article entitled ''How Independent Is the Counsel,'' once again, talking about the conflicts, talking about the image that this man who is burdened with these conflicts presents as he is attempting to portray that he is fair-minded, objective, and impartial in finding all the facts.

It is time, Mr. President, that, once again, we sort of set this ship straight, if I might say that. It is time that we move forward with a fair determination of the facts and finding of the

facts. I hope the committee will proceed expeditiously. But had I had the opportunity to vote, if it were a matter before this body that required a yes or no vote, I would have voted ''no.''

Mr. HATCH. What is the regular order, Mr. President?

The PRESIDING OFFICER. The conference report on S. 735 is the order of business.

Mr. HATCH. Soon we will proceed on that. But while we are waiting for Senator BIDEN to come, I want to say that I have sat on the Whitewater committee. I have to say I think it has been conducted very fairly. Senator D'AMATO has bent over backward to do it fairly. I know our counsel has done a fair and decent job. In fact, I have never seen two better counsel than the two we have on both the minority and majority sides on the Whitewater matter.

I also have to say that I hope it is resolved in favor of the President and First Lady. But there are a lot of things that are very much up in the air, matters over which we have a great deal of concern. You cannot just sweep them under the rug because it has taken time. There have been obfuscation, delays, and there have been deliberate refusals to give documents, and documents have suddenly appeared. These types of things do not ordinarily happen. It has been filled with all kinds of incidents and occurrences that literally would cause anybody to say, ''What is going on here? If there is nothing wrong, why all these problems?'' Personally, it is bothering me.

I have to say that I am glad we are getting this on the way to a resolution. I hope we can expedite it and do it in a fair and proper way, and get it over with one way or the other. I intend to do what I can to insist on doing that.

With that, I would like to go to the regular order, and I yield to Senator BIDEN.

TERRORISM PREVENTION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, I offer a motion to recommit the conference report with instructions to add provisions on wiretap authority for terrorism crimes. I send the motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] moves to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:

SEC. . AUTHORIZATION FOR INTERCEPTIONS OF COMMUNICATIONS IN CERTAIN TERRORISM RELATED OFFENSES.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c)—

(A) by inserting before ''or section 1992 (relating to wrecking trains)'' the following: ''section 2332 (relating to terrorist acts abroad), section 2332a (relating to weapons of mass destruction, section 2332b (relating to acts of terrorism transcending national boundaries), section 2339A (relating to providing material support to terrorists), section 37 (relating to violence at international airports),''; and

(B) by inserting after ''section 175 (relating to biological weapons),'' the following: ''or a felony violation under section 1028 (relating to production of false identification documentation), sections 1541, 1542, 1543, 1544, and 1546 (relating to passport and visa offenses),''; (2) by striking ''and'' at the end of paragraph (o), as so redesignated by section 512(a)(2);

(3) by redesignating paragraph (p), as so redesignated by section 512(a)(2), as paragraph (s); and

(4) by inserting after paragraph (o), as so redesignated by section 512(a)(2), the following new subparagraphs:

''(p) any violation of section 956 or section 960 of title 18, United States Code (relating to certain actions against foreign nations);

''(q) any violation of section 46502 of title 49, United States Code; and''.

The PRESIDING OFFICER. The time is 30 minutes equally divided.

Mr. BIDEN. Mr. President, I yield myself such time as I may consume within my allotted time.

Mr. President, before I begin on this amendment, I want to just tell you, and all of my colleagues who may be listening back in the offices, that while the last vote was going on a colleague of ours, Senator WENDELL FORD, came to the floor and said, ''Let me show you something my staff just downloaded from the Internet.'' While you were all voting on whether or not to prohibit people from being able to teach people how to make bombs knowing or intending they be used to violate the law, let me read what was downloaded. This is roughly at 3:20 p.m. today.

Attention all Unabomber wannabes. You will first have to make a mild version of thermite. Use my recipe but substitute iron filings for rust. Mix the iron with aluminum filings in a ratio of 75 percent aluminum, 25 percent iron. This mixture will burn violently in a closed space (such as an envelope). This brings us to the next ingredient. Go to the post office and buy an insulated (padded) envelope. You know, the type that is double layered. Separate the layers and place the mild thermite in the main section where the letter would go. Then place magnesium powder in the outer layer. There is your bomb!!

Now to light it. This is the tricky part, and hard to explain.

I am still quoting now.

Just keep experimenting until you get something that works. The fuse is just that torch explosive I have told you about in another one of my anarchy files. You might want to wrap it like a long cigarette, then place it at the top of the envelope in the outer layer (on top of the powdered magnesium). When the torch explosive is torn, or even squeezed hard, it will ignite the powdered magnesium (sort of a flash light) and then it will burn the mild thermite. If the thermite did not blow up, it would at least burn your enemy (it does wonders on human flesh).

You all just voted to keep that legal—to keep that legal—because of the fear, apparently, or concern that we would not be able to convince 35 recalcitrant House Members to make that illegal. That is what you did. That is what you did.

I ask unanimous consent that this be printed in the RECORD along with the baby food bomb by Warmaster, also taken off the Internet.

For all of you who are concerned about the pornography on the Internet, as I am, how do you explain banning that, which we should, and not this? Pornography deforms the mind. These bombs burn the flesh.

I ask unanimous consent that these recipes available to our children and the demented people out there in the public, the few that exist, be printed in the RECORD to know what we have just done.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ATTENTION ALL UNABOMBER WANNABES

You will first have to make a mild version of thermite. Use my recipe, but substitute iron fillings for rust. Mix the iron with aluminum fillings in a ratio of 75% aluminum to 25% iron. This mixture will burn violently in a closed space (such as an envelope). This brings us to our next ingredient. Go to the post office and buy an insulated (padded) envelope. You know, the type that is double layered. Separate the layers and place the mild thermite in the main section, where the letter would go. Then place magnesium powder in the outer layer. There is your bomb!! Now to light it . . . this is the tricky part and hard to explain. Just keep experimenting until you get something that works. The fuse is just that touch explosive I have told you about in another one of my anarchy files. You might want to wrap it like a long cigarette and then place it at the top of the envelope in the outer layer (on top of the powdered magnesium). When the touch explosive is torn or even squeezed hard it will ignite the powdered magnesium (sort of a flash light) and then it will burn the mild thermite. If the thermite didn't blow up, it would at least burn your enemy (it does wonders on human flesh!).

BABYFOOD BOMBS

(By Warmaster)

These simple, powerful bombs are not very well known even though all the materials can be easily obtained by anyone (including minors). These things are so powerful that they can DESTROY a car. The explosion can actually twist and mangle the frame. They are extremely deadly and can very easily kill you and blow the side of the house out if you mess up while building it. Here's how they work.

Go to Sports Authority or Hermans sport shop and buy shotgun shells. It is by the hunting section. At the Sports Authority that I go to you can actually buy shotgun shells without a parent or adult. They don't keep it behind the little glass counter or anything like that. It is $2.96 for 25 shells.

Now for the hard part:

You must cut open the plastic housing of the bullet to get to the sweet nectar that is the gunpowder. The place where you cut it is CRUCIAL. It means the difference between it blowing up in your face or not.

You must not make the cut directly where the gunpowder is or it will explode. You

must cut it where the pellets are. When you cut through it, empty the pellets out and the white stuff (called buffer) that surrounds the pellets. There is a layer of wadding that separates the gunpowder from the pellets and that must be cut through VERY CAREFULLY! Don't use a drill! Whatever instrument you use (knife, screwdriver, etc.) you must work very slowly and don't make big movements. Friction can set it off. You now have a nice supply of gunpowder.

I have also tried this with Quail Shot. The only difference between buck and quail is that quail has very small pellets and buck has big ones.

It is strange but almost all shotgun shells have a different interior. Some have very powdery powder and some have flakes for powder. Also some have plastic wadding and some have cardboard. Usually the smaller the pellets the less gunpowder and more cardboard wadding. The smaller pellet sizes are the ones with the flakes. Also that white stuff called buffer is only used in heavy buckshot and is not found in Quail and Dove shot or other bullets with small pellets.

[Contents deleted from original.]

I would like to stress once again that this is EXTREMELY dangerous and can very easily kill you. I've done this once and it scared the———out of me and I am never doing it again. These are very destructive. If you are stupid enough to do it, wear two or three pairs of safety glasses and thick clothes to protect you from the glass. The———can still hurt you from 100 feet away. The blast is also deafening. But if you want to spread some choas, this little bomb is the way to go.

Did I mention that this is also highly illegal?

Unimportant stuff that is cool to know:

They rate shotgun shells by two numbers. Gauge and pellet size. With gauge the smaller the number the bigger the bullet (12 gauge is bigger than 14 or 16 gauge). The biggest I know of is 10 gauge, but that is very hard to find. The other number is the pellet size. The bigger the pellet the less can fit in the bullet. The advantage of a big pellet is that it is more powerful but cover an area very scarcely. The smaller pellets have a much lower velocity but there are many more pellets in the shell. Here is how the system goes: 000 buckshot (triple 0) is the very biggest. There are only 10 pellets in it but they are huge. Then comes 00, 0, 1, 2, 3, 4, 5, 6, 7. Number 7 has about 200 pellets in it. It is used for squirrels and small birds. Generally the 000, 00, 0, 1, 2, 3, and 4 have the best powder. Anything higher up has this weird flakey gunpowder that doesn't work so well.

Some Other Things That Smart People Do That Don't Want To Get Killed:

Other things you can do with the powder other than use it in a babyfood jar is to use it in a smaller jar. You will get less bang out of it but it is much safer. Some good jars to use are very small makeup jars and those little TESTORS paint bottles. The paint bottles have thick glass and it might be more dangerous. Another thing you can do with the powder is wrap it up tightly in some paper and stick a fuse in it (it is easier to put the fuse in before you wrap the paper).

Typed by the Warmaster.

The author accepts no responsibility for any misuse of information in this file. This is for information purposes only, and reading enjoyment only, and is meant to show how at any time any lunatic with a mile long police record can legally make a highly powerful bomb with almost no equipment. The author is not advocating the use of explosives in any way.

Mr. BIDEN. Mr. President, what I would like to speak to in an indirect way covers this. We have had several votes on wiretaps, and I know people are asking why am I introducing the other wiretap provision that was taken out of the Senate bill. The reason I am is I refuse to believe that, if you all hear this enough, you will not eventually decide to do the right thing on this.

The provision that I have proposed is not original with me. It was in the Senate bill that we passed. The provision would add a number—the bill we have before us, the conference report—would add a number of terrorism-related offenses to the law. I will go into those in a minute. What I have sent to the desk, if adopted, would instruct the conferees to add the same number of offenses that we are adding to the bill, to the law, to those categories of things for which the Government, with probable cause, can get a wiretap. It was in the Senate bill as introduced by Senators HATCH and DOLE. It was part of the terrorism bill reported out of Representative HYDE's Judiciary Committee. Unfortunately, by the time the bill had made it to the House, the provision was dropped.

I think it is worth talking a moment about how a wiretap statute works, the one that is in place now in the law, for it seems there is a lot of misunderstanding about it these days. I am repeating myself again to eliminate the misunderstanding. As some people tell it, you would think the FBI and BATF and the local and State police are tapping our phones left and right, that they are riding down the streets in vans with electronic devices eavesdropping into our windows and houses—which they have the capacity to do, by the way. But that is just not the way it works.

First and foremost, it is not an FBI agent but a U.S. attorney, or even the Attorney General herself, who has the power to authorize the wiretap. No. Actually, that is not quite true. The ultimate authority to issue a wiretap sits only with a Federal judge. The U.S. attorney has the power to petition the court for a wiretap, but only a judge, a judge who cannot be fired, whose salary cannot be docked by any of us in Washington, who cannot be affected in any way, only a judge may disagree with something that the Attorney General does or does not do. It is that judge who must determine that there is probable cause to believe that a specific crime—not a general crime—a specific crime has been—not is about to—has been committed; that specific people are committing that crime, and that they are doing it at a specific place. The affidavit that the U.S. attorney takes to the court, to the judge, must also satisfy what is called the necessity requirement. The judge must be convinced that other less intrusive investigative procedures have been tried and failed—that is infiltration, that is eavesdropping in a conversation, walking by, any other method—has to be convinced that they have been tried and failed or that they are unlikely to succeed in any reasonable circumstance.

That necessity requirement is meant to ensure that wiretapping is not the normal investigative technique, like physical surveillance or the use of informants. These are very serious protections, Mr. President. I believe that interposing a court between the prosecutor and the wiretap is a citizens' best protection.

But even before we get to the judge who makes his decision, there is a very painstaking, stringent process within the Justice Department for determining when to seek a court authorization for a wiretap.

First, the agent in the field, under the supervision of his or her supervisor, must write an affidavit, a sworn affidavit, that they must sign that sets out all the particular facts relating to probable cause, because even if an order is granted based on the agent, if he is lying, then that information is gone even if the judge issued the wiretap order.

So, on the front end, you have to have a sworn law enforcement officer swear that the information they are writing down as to why they think a crime has been committed is true. They are liable. An assistant U.S. attorney then must take that affidavit from the FBI agent and draft an application and a proposed order for the court to sign. The package then must be sent from the U.S. attorney in Wilmington, DE, or in Manchester, NH, and sent down to Washington. The U.S. attorney cannot just walk into the courtroom of the Federal judge or to any of the judges, and say, ''Judge, I want a wiretap.'' They must send it down to Washington. Once the package is sent to Washington, the Criminal Division of the Justice Department takes a look and scrutinizes the affidavit and discusses any necessary changes or additions or questions they have with the U.S. attorney that is handling the case back in Manchester, Wilmington, or Salt Lake City.

Then a detailed memorandum summarizing the facts and legal issues and addressing the application's compliance with each statutory requirement is sent to the Assistant Attorney General. All these materials are then sent to the Assistant Attorney General or Deputy Attorney General for final review and final authorization, and then it is sent back to Manchester, sent back to Wilmington, sent back to Salt Lake City. The U.S. attorney then petitions the court and then goes in and sees a judge.

This is painstaking. It is time consuming, as well it should be, for we want to make sure that wiretaps are used in only the most serious cases. We want to make sure that they are used only as a last resort when all other less intrusive techniques have failed, and we want to make sure that the Government is not making unwarranted intrusions into our privacy. But we also

need to make sure that law enforcement has the tools, if they meet all these hurdles, to catch the bad guy.

Now, this provision that I have offered, that we already voted on, will provide an important tool. Let me just point out there is currently a very long list of crimes for which a wiretap can be authorized. Let me make this point because a lot of nonlawyers or people who do not practice criminal law are not aware of this as well.

You cannot get a wiretap, even if you do all the things I just said, unless you turn to the Criminal Code, and you have all these crimes listed in the Criminal Code. OK. You may find a crime in one section, and then you have to turn to another section, section 251, of the Criminal Code entitled, ''Authorization for Interception of Wire, Oral or Electronic Communications.'' And then you have to find there in subsection (c) the list of offenses for which you can get a wiretap. Not every crime is entitled to have a wiretap attached to it.

So it is a two-step process. First, you have to prove there is a crime being committed that is a violation of the Federal law. Second, you have to go through all these procedures that I outlined to safeguard that it is not willingly used by the Government to intrude on your privacy. And then, in that process, you have to make sure it is a listed crime for which you can seek a wiretap. OK.

Now, some of those crimes for which you can seek a wiretap are murder, kidnaping, robbery, extortion, bribing public officials, witnesses, or bank officials, obstructing justice, criminal investigations or law enforcement, all manner of fraud and embezzlement, destroying cars, wrecking trains. They are all listed, all listed. And this list goes on.

The provision I am suggesting here does only one minor thing: It would add a very serious and potentially deadly terrorism offense to that list, including new offenses that are added in this legislation. The legislation we are voting on, the conference report is this thing, and in here, to the credit of the chairman and I believe to me and others who worked on this, we add new crimes, new Federal crimes, terrorism crimes for which the Federal Government can go after you if you do these bad things. But we miss one important step. We do not take these new laws and add them to the list of those things for which you can get a wiretap. This would do that, would allow wiretaps with all the procedures for the new crimes of terrorism we have in here.

It is ironic. At first I thought it was an oversight, but obviously it is intended that you not be able to use wiretaps to deal with terrorism as we outlined in the bill.

I assume my time has expired.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BIDEN. I thank the Chair.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized for 15 minutes.

Mr. HATCH. We have been doing this for a year. We are trying to pass a bill here that will make a difference against terrorist crimes. I can say categorically that there is virtually always a way to get wiretaps if the prosecution wants it, if the law enforcement people want it. To just add the word terrorism, that would be efficacious, but it still would not stop anybody—if you do not add it, it still would not stop anybody from getting the necessary wiretaps in the case of suspected terrorists.

We can overdue these technicalities to the end of the doggone Congress. The fact is, this bill contains alien terrorist removal provisions that will make a real difference. It contains designation of terrorist organizations that we do not have right now, neither of these provisions, that will make a real difference today. We have Hamas people in this country who want to murder our Jewish citizens, just to mention a few. We have Abu Nidal people in this country who want to murder our Jewish citizens and others, do anything to disrupt our economy. We have other terrorist organizations in this country. We have at least 1,500 known terrorists and organizations in this country. And we are standing here debating whether or not we should put a word into the bill.

Now, I agree I would love to put it in, but in this year-long set of negotiations and work with the other body, they did not want it put in that way. They are concerned that we are expanding wiretapping too far. It is a legitimate concern.

This world is turned upside down. When I got here 20 years ago, the conservatives wanted the wiretapping because they wanted to stop all crimes. The liberals did not want it because they were concerned about civil liberties. I can remember the battles we had in the Judiciary Committee, and they were heated and intense.

Today, it is the opposite. The conservatives, some conservatives, especially those on the far right—and I might add, the far left liberals still do not want wiretapping, but the far right conservatives are concerned because they feel like justice went awry in Waco and Ruby Ridge, the Good Ol' Boys roundup and other matters. Those are legitimate concerns that they bring.

Let me just say this. I would not mind putting this in the bill if I could at this point, but I cannot and still have a bill. We have a bill that has alien terrorist removal provisions. It would help this country all over the world. It would help other countries all over the world. Designation of terrorist organizations, we start to put a stop to terrorist organizations. It would certainly stop the fundraising. We have language that will stop the raising of funds in the United States of America that are sponsoring terrorism all over this world.

These are big provisions. These are things that can make a difference. We can get around these other technicalities, and we can get wiretaps if we need them. But we cannot get these things without this bill.

Summary exclusion of alien terrorists, we have a right to do it because of this bill. These were provisions we had to fight to get back into the bill that we had written in the Senate, provisions that will make a difference, not some technicality that is important and I would like to have in, that the Senator from Delaware would like to have in, and rightly so. I do not have any problem with that. We have not been able to get those technicalities in, but there are ways around those technicalities today without having them in. There are no ways around these provisions, none. We cannot do these things without this bill. Without this bill we could not stop many major terrorist problems in this country that could happen in the future.

We have language in here on biological weaponry, something that is critical. Every one of us is concerned about that, and rightly so. We succeeded in getting the House to tighten up and toughen up those provisions dealing with the transportation and sale of human biological agents. That needs to be done. We should not wait a day longer; we should not wait an hour longer to get that done. We have criminal alien removal procedures. When these criminal aliens get convicted, the minute their sentence is over, they are moved. We get them out of this country so they cannot just waltz out of the jail and go and start doing further terrorist activities.

We have $1 billion in authorization money in this bill, to go to work tomorrow, if we pass this bill and as soon as the President signs it, to go to work to fight against this terrorist activity.

We have language in here that goes a long way toward tagging explosives. I could go on and on. I could talk for 4 or 5 hours on what is in this bill and why it is going to make a difference against terrorism.

I have to say my colleague from Delaware deserves his reputation as a very fine lawyer and somebody who is bringing up very good points here. Most of the language he has brought up, I wrote. Naturally, some of it I would like to have in the bill. But we can get around most of those problems with current criminal law. We cannot get around these problems I am discussing with regard to terrorism.

Let me just say on wiretapping alone, just so people understand how serious this is, in 18 United States Code, section 2518, it says:

Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, [any, by the way] specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General or by the principal prosecuting attorney of any State or subdivision

thereof acting pursuant to a statute of that State, who reasonably determines that—

(a) an emergency situation exists that involves—

(i) immediate danger of death or serious physical injury to any person,

(ii) conspiratorial activities threatening the national security interest, or

(iii) conspiratorial activities characteristic of organized crime,

that requires a wire, oral, or electronic communication to be intercepted before an order authorizing such interception can, with due diligence, be obtained. . . .

I would like all this clarifying language in. I would not mind having it. We had it in the Senate bill and we have worked for a year to try to get it back in and almost every major, big provision we have gotten back in. Some of this we have not. But we have ways to get around those problems.

I will repeat it. Talking in real terms, realistically, there is always a way to do it if it has to be done, to get a wiretap. But there is not always a way to remove terrorist aliens. There is not a way right now to designate terrorist organizations as terrorists and to start branding them for what they are all over the world and start using the force of American power and law against them. There is no real way to stop fundraising today for terrorist organizations in this country.

I might say there is no summary exclusion of alien terrorists today. We do not have any aspects against biological weapons.

I was the one who held the hearing just a month or so ago, showing where you could get—anybody if they were clever enough, could get human pathogens that could cause major diseases all over this country.

I might add, we do not have any current criminal alien removal procedures. This bill grants all of that.

We do not have habeas corpus reform, death penalty reform in this country. That alone, the people who have suffered, the victims of the Oklahoma City bombing would be enough to justify this bill. But I am giving you bigtime stuff that will make a difference against terrorism. These other matters, we can get around those in most instances.

I am telling you, I will just say one other thing. I am committing right here on the floor today I will do everything in my power, as chairman of the Judiciary Committee and as one of 100 Senators here, to try to correct some of these matters in the future, after we have these studies that help us to know how to correct them and after we can get rid of some of these perceptions that law enforcement is too intrusive and is not protective of the civil rights and liberties of people in this country.

I believe it is. I believe our law enforcement people are the best in the world. We have occasional mistakes, but I think the FBI is the best in the world. I think our Justice Department is the best in the world. I think ATF does a very good job and they are cleaning up a lot of problems that have existed in the past in the eyes of most people who own guns in this country, and they are doing it, I think, in an expeditious and good way. I am proud of the law enforcement in this country. I want to give them the tools and I want to work hard to make sure we have them. But we have to give them these tools now. We have to start fighting terrorism, instead of really babbling, here, on the floor of the U.S. Senate.

The longer we go the more difficult it is to get this through over in the House. If we change one word of this and go back to conference, I can tell you right now we are in danger of losing the bill. So, sure I can improve any bill. Just make me a dictator and let me write whatever I want to and I guarantee you it will be perfect. At least that is the idea of some people in this body. But we have to live in the real world of bringing 100 Senators, 435 Representatives—535 minds together and, by gosh, we have done a pretty good job.

When the Senator read the Internet bomb description, had his idea—and I might add even I would agree with the idea—been the law, he might have been in violation of his own law. The fact of the matter is, there are still ways of getting around that problem. We can go after bomb makers, under this bill. We can make a difference.

I just wanted to mention a few things that we are really fighting for here, major issues, major issues that can help us against crime, against terrorism, that will help to prevent future terrorist activities. Do we have everything in this bill? I said from the beginning, no, we do not, because we have to bring together at least half of the 535 people serving in both Houses of Congress. But we have a lot of things in this bill I never thought we would get there, through 535 people. This is a bipartisan bill. It is a bill that both Republicans and Democrats have fashioned. Frankly, I am proud of it and I would like to get about passing it.

In that regard, then, on behalf of Senator DOLE and myself, I move to table the Senator's motion and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, may I make a suggestion? There are several colleagues who apparently will have difficulty getting here in the next 5 minutes for this vote. Senator KENNEDY is on the floor, ready to proceed with an amendment. Maybe we could just stack the two? I have been opposing stacking them all day.

Mr. HATCH. Mr. President, I ask unanimous consent we stack the next two votes to occur immediately after the time expires on Senator KENNEDY's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield myself 60 seconds on the bill. I have two responses.

My distinguished and able colleague has mixed up apples and oranges here. The section he read from the wiretap statute related to emergency wiretaps that do not require a court order at the front end.

What we are talking about are wiretaps where they want to go in and we want to prove they have probable cause to get the wiretap in the first case.

Second, I agree with everything that he says about the good parts of the bill. They were in the same bill I introduced, most of those things. I am for them. But the problem is, he mentioned there are 1,500 terrorists out there, or whatever the number. Under the bill now we create a new crime relating to providing material support for terrorists, if you send money to Hamas and provide material support or an automobile or a train ticket or whatever it is, and it is not a crime. It is a Federal crime now, but one for which you cannot get a wiretap. That seems to make no sense to me and that is why I have introduced this amendment.

I yield the floor to my friend from Massachusetts.

Mr. HATCH. Mr. President, if my friend from Massachusetts will just allow me to respond for 15 seconds, I will just make the statement again. Realistically, in this real world, if law enforcement wants to get a wiretap, whether emergency or otherwise, it is going to be able to get it. That has been my experience and I think it has been the experience of every prosecutor, I think, in this country.

Mr. BIDEN. I yield myself 15 more seconds on the bill. That is the very thing we do not want to happen. We want prosecutors to operate under the law. We do not want to further ignite the imagination of those folks over in the House. We want them to do it by the numbers, not with imagination.

Mr. HATCH. Mr. President, I would just add, they will do it by the law, but realistically they can do it. I have also said that I will work with the distinguished Senator from Delaware to try to resolve these problems in a formal bill in the future, as we examine this more carefully. I think we can do that job. But it is misleading, to think the American people are not going to be protected, from a wiretap standpoint, when I know the law enforcement officials can use wiretaps and can get them, realistically, in almost every situation.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that I may speak on the conference report without the time being charged to the remaining 20 minutes of the general debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, it is a year since the tragic bombing of the Federal building in Oklahoma City, and 10 months since the Senate passed a bill to give Federal law enforcement agencies the effective assistance they need to deal with these crimes.

Unfortunately, the conference report before us is a far weaker bill than the measure we passed last year. All that is left now is the hollow shell of a terrorism bill, a mockery of the strong bipartisan legislation passed by the Senate. Most of the meaningful antiterrorism measures passed by the Senate have been stripped out by the House, so that this bill is far less likely to deter terrorist crimes or aid in the apprehension of terrorists.

Using the phony label of antiterrorism, the bill achieves two reprehensible goals: it denies meaningful habeas corpus review to State death row inmates, and it makes it easier to turn away refugees and victims of political persecution from America's shores.

Everyone knows what happened to this bill. It fell victim to the anti-Government assault of the National Rifle Association. After the Senate passed a tough, effective terrorism bill, the NRA stepped in and prevented House action for months. Then the NRA's supporters in the House stripped the bill of key provisions to strengthen Federal law enforcement.

As a result of the NRA's maneuvering, the conference report before us is completely inadequate to meet the needs of law enforcement. The Senate still has a chance to insist on a real terrorism bill, and not a sham bill. We should send this bill back to conference, and insist that the conferees restore the tough Senate provisions.

There are numerous glaring gaps in the conference report:

It does not include the expanded wiretapping authority that the FBI has said is necessary to keep up with current telecommunications technology.

It does not address the dangerous reality that bomb-making information is now freely disseminated on the Internet.

It does not include a Senate-passed provision extending the statute of limitations for serious firearms offenses.

It does not include a necessary exception to the posse comitatus laws so that military experts can provide technical assistance to law enforcement in terrorist attacks involving chemical or biological warfare.

Each of these measures was included in the Senate bill, but has been stripped out of the conference report at the insistence of the NRA.

And while the bill is clearly deficient in these respects, it includes other provisions that are too extreme in limiting the rights and liberties of individuals:

It eviscerates the ancient Writ of Habeas Corpus, denying death row inmates the opportunity to obtain even one meaningful Federal review of the constitutionality of their convictions.

It returns to the discredited cold war guilt-by-association policy of the McCarran-Walter law, excluding individuals from our shores based on mere membership in an organization. Current law already contains authority to exclude members of known terrorist organizations. The far broader sweep of this bill is unnecessary and excessive.

It places excessive restrictions on the ability of refugees to obtain asylum in the United States. This provision was never considered by the full Senate, and it ought to be debated on the immigration bill, not the terrorism legislation.

Mr. President, I point out here what has been happening. Asylum claims decline 57 percent as productivity doubles in 1995. What we have seen is the dramatic reduction in terms of the asylum claims. In 1994, there were 122,000; 60,000 completed.

In 1995, 53,000; 126,000 were completed. The Justice Department has a handle on this issue. It is doing it in a conscientious, fair, and disciplined way, and we ought to retain it and not be caught up with other facts and figures.

Every omnibus bill requires Members of Congress to weigh the good provisions against the bad ones. I voted for the Senate bill even though it included the objectionable limits on habeas corpus. But the balance has changed, now that the Senate bill has been seriously weakened. There is too little to place on the scale against the shameful trashing of the writ of habeas corpus and the Nation's asylum system.

It is unfortunate that the unrelated and controversial subject of habeas corpus was injected into this bill in the first place. Proponents say that habeas corpus is relevant because the suspects in the Oklahoma City bombing are charged with a Federal capital offense. But that fact is no justification for changing the rules with regard to State prisoners.

The habeas corpus proposals do not strike a fair balance. The bill denies death row inmates a full opportunity to raise claims of innocence based on newly discovered evidence. It will therefore increase the likelihood that innocent people will be executed. The proposal to limit inmates to one bite at the apple is sound in principle. But surely the interest in swift executions must yield to new evidence that an innocent person is about to be put to death. As Supreme Court Justice Potter Stewart once wrote, ''Swift justice demands more than just swiftness.''

Also, the proposal would unwisely require Federal courts to defer to State courts on issues of Federal constitutional law. A Federal court could not grant a writ habeas corpus based on Federal constitutional claims, unless the State court's judgment was ''an unreasonable application of Federal law.''

It is a serious mistake to require a Federal court to defer to the judgment of a State court on matters of Federal constitutional law. The notion that a Federal court should be prevented from correcting a constitutional error because it was a reasonable error is unacceptable, especially in a capital case. Ever since the days of Chief Justice John Marshall, the Federal courts have served as the great defenders of constitutional protections, and they should remain so.

The asylum provisions in this bill are equally misguided.

The Senate-passed bill did not address this subject, because it is more appropriately dealt with as part of immigration reform. But the conferees adopted House-passed language that drastically limits the ability of refugees to claim asylum if they arrive without proper documents. This provision undermines the fundamental treaty obligations of the United States by subjecting legitimate refugees to persecution and even torture.

It is often impossible for asylum seekers fleeing persecution to obtain a valid passport or travel document before they leave. Even the effort to obtain a travel document from the same government that is the persecutor may result in further danger to the asylum seeker. People may die or may be tortured while waiting for the proper papers. Accepting this reality, the U.N. High Commission on Refugees has recognized that circumstances may compel a refugee to use fraudulent documents to escape persecution.

This fact has long been recognized under international law. The United States has international obligations to protect refugees and asylum seekers who use fraudulent documents to escape persecution abroad. Article 31 of the U.N. Convention Relating to the Status of Refugees imposes an obligation on the United States not to penalize refugees and asylum seekers who are fleeing persecution, and who present fraudulent documents or no documents at all.

Under current practice, when asylum seekers arrive in the United States without valid travel documents or a passport, they are placed in detention. Generally, they are released from detention only if an asylum prescreening officer believes they have a sound case. That is the dramatic change in the way the Justice Department is considering the asylum seekers at the present time and how they were considered a number of months ago. Otherwise, they must pursue their asylum claim while in detention.

The pending bill significantly changes this process. It gives the prescreening officer the authority to deport an asylum seeker who enters with false or no documents. The office can deport the asylum seeker without a full hearing. An immigration judge never sees the case. In addition, the asylum seeker has no access to the assistance of counsel or even an interpreter.

As we consider this unprecedented proposal, we should remind ourselves of Raoul Wallenberg, the hero who saved countless lives during the Holocaust by

issuing false travel documents so that Jews could escape Hitler's persecution. If this bill had been law in 1946, those Jews could have been returned to Europe without so much as a hearing.

Finally, the bill is flawed because it excludes foreigners from our shores based on mere membership in a disfavored organization.

In the days of the cold war, distinguished writers, professors, and others were excluded from the United States based on their mere membership in a Communist organization. Finally in 1990, we repealed the notorious McCarran-Walter law and set exclusion criteria based on individual actions, not their words.

This bill is a giant step backward. It explicitly sets excessive exclusion criteria based on membership in an organization, even though it would be grossly unfair to assume that all or even most members of the organization are terrorists.

Current law already gives broad authority to exclude members of terrorist organizations in such cases, and the blunderbuss provision in this bill is unneeded. If applied to American citizens, it would be a violation of the first amendment.

The harm caused by the habeas corpus, asylum, and exclusion provisions of this bill is severe, and the good accomplished by the antiterrorism sections of the bill is minor. I urge the Senate to send this defective bill back to conference with instructions to do the job right—and produce a real antiterrorism bill that gives law enforcement the tools it needs to get the job done.

I thank the chairman and the ranking minority member of the committee for letting me address the Senate on this issue.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have listened to my distinguished colleague and friend, and he would like to restore the Senate bill. We just cannot do that. I was very proud of that Senate bill. I wrote most of it and, frankly, I think our colleagues worked together to come up with a good bill. When it went to the House, the House enacted a bill which really was much less than the Senate bill. We have gone to conference and have brought most all of the Senate bill back.

The distinguished Senator from Massachusetts says that this bill we have today is a hollow shell. Now, come on. Let me just go through some highlights of this bill.

We have most everything back, and the things we do not have back, we can probably, in the real world, solve anyway, under current existing law. I have to say, yes, I would prefer the original Senate bill, but let me give you one illustration.

In the fundraising provisions, I might add that the Antidefamation League, and others of similar mind—and I am of similar mind—believe that our fundraising language is far superior in this bill than it was in the Senate bill. I know it is far superior.

We were able to work that out with our colleagues in the House. That alone is a reason for preferring this bill over the Senate bill, plus the added promise that I have made here that I will try to work out these wiretap and other issues, or at least the wiretap issues, in the Senate Judiciary Committee.

But just look at the highlights of this antiterrorism bill. Capital punishment reform, death penalty reform, something that has been needed for years, decades. It is being abused all over the country. There are better than 3,000 people who have been living on death row for years with the sentences never carried out, the victims going through the pain every time they turn around. This will solve that problem while still protecting their constitutional rights and every right of appeal that they really should have. It is written well.

The international terrorism prohibitions, prohibitions on international terrorist fundraising. As I have said, the Anti-Defamation League, AIPAC, and a whole raft of others that are concerned in this area, like the language in this bill much better than the language in the Senate bill.

This subtitle adds to Federal law prohibitions which provide material support to, or raise funds for, foreign organizations designated by the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to be terrorist organizations.

We have the Terrorist and Criminal Alien Removal and Exclusion Act in this bill. We remove alien terrorists, and we provide very good language that was very much the same as the Senate language.

We have the exclusion of members or representatives of terrorist organizations, the alien terrorists exclusion, if you will. This permits, as a new legal basis for alien exclusion, the denial of entry into the United States of any person who is a representative or member of a designated terrorist organization.

We have a whole title on nuclear, biological, and chemical weapons restrictions. These are not picayune provisions. This is big-time stuff. This is something this country has needed for years and the whole world needs. We have it in this bill.

We have the expansion of scope and jurisdictional bases of nuclear materials prohibitions and a report to Congress on thefts of explosive materials from armories. We require the Attorney General, together with the Secretary of Defense, to undertake a study of the number of thefts of firearms, explosives, and other terrorist-type materials from military arsenals. We will make them get on these things.

We have biological weapons restrictions, enhanced penalties, and control of biological agents. We have chemical weapons restrictions, chemical weapons, and biological weapons of mass destruction. We provide for a study of the facility for training and the evaluation of personnel who respond to the use of chemical or biological weapons in urban or suburban areas.

We have the implementation of the Plastic Explosives Convention in here. We have the marking of plastic explosives. We have studies on the marking of other explosives and putting taggants on them.

We have made a whole bunch of modifications in criminal law to counterterrorism, increased penalties for conspiracies involving explosives. All this talk about explosives. We provide language in here that will help to solve those problems.

Acts of terrorism transcending national boundaries, we have language on that. We have criminal procedure changes in here that would make a real difference with regard to certain terrorism offenses overseas, the clarification of maritime violence jurisdiction, increased and alternate conspiracy penalties for terrorism offenses, clarification of Federal jurisdiction over bomb threats. The expansion and modification of weapons of mass destruction statute is in here, the addition of terrorism offenses to the money laundering statute.

We have the protection of Federal employees in here mainly because it is needed now in this day and age with some of the vicious people we have to put up with in our society. We have the protection of current and former officials in here, officers, employees of the United States.

We have the death penalty as an aggravating factor. We solve that and add multiple killings to the list of aggravating factors in the imposition of the death penalty. We have detention hearing language in here and directions to the sentencing commission.

I have to say, we have a whole raft of other things that I do not have time to mention. Look, it is time to pass this terrorism bill. It is time to let the people in Oklahoma City know we mean business here.

Is the time expired on both sides? On behalf of the majority leader and I, I move that we table the Kennedy amendment and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered. The question occurs on agreeing to the motion to table.

Mr. HATCH. Mr. President, do we have motions to table on both of these amendments? And will they be back to back?

The PRESIDING OFFICER. There is only one amendment. The Senator from Massachusetts did not offer an amendment.

Mr. HATCH. He did not. I am happy to then proceed with the vote on the Biden amendment.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to table the motion to recommit.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 68 Leg.]

YEAS—56

Abraham	Faircloth	McCain
Ashcroft	Feingold	McConnell
Baucus	Frist	Murkowski
Bennett	Gorton	Nickles
Bond	Gramm	Pressler
Brown	Grams	Reid
Burns	Grassley	Roth
Campbell	Gregg	Santorum
Chafee	Hatch	Shelby
Coats	Hatfield	Simpson
Cochran	Helms	Smith
Cohen	Hutchison	Snowe
Coverdell	Inhofe	Specter
Craig	Jeffords	Stevens
D'Amato	Kassebaum	Thomas
DeWine	Kempthorne	Thompson
Dole	Kyl	Thurmond
Domenici	Lott	Warner
Exon	Lugar	

NAYS—43

Akaka	Glenn	Mikulski
Biden	Graham	Moseley-Braun
Bingaman	Harkin	Moynihan
Boxer	Heflin	Murray
Bradley	Hollings	Nunn
Breaux	Inouye	Pell
Bryan	Johnston	Pryor
Bumpers	Kennedy	Robb
Byrd	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Simon
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Feinstein	Levin	
Ford	Lieberman	

NOT VOTING—1

Mack

The motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SMITH. Mr. President, I rise to commend Senator HATCH and the other members of the conference committee for incorporating what originated in this Congress as my bill, S. 270, the Alien Terrorist Removal Act of 1995, into the conference report on S. 735, the Anti-Terrorism and Effective Death Penalty Act of 1996.

I also want to thank Senator SPECTER again for the opportunity to testify before his Judiciary Subcommittee on Terrorism last summer regarding my alien terrorist removal bill.

My bill—now the alien terrorist removal section of the conference report on S. 735—essentially embodies the Smith-Simpson amendment that the Senate passed unanimously as part of the crime bill in the last Congress. Unfortunately, certain House members of the conference committee on the 1994 crime bill insisted on the deletion of the Smith-Simpson amendment from that legislation.

After I introduced S. 270 early in the first session of this Congress, the Clinton administration proposed its own substantially identical version of my bill as part of its omnibus antiterrorism legislation. Then, in the wake of the Oklahoma City bombing, Senators DOLE and HATCH introduced S. 735, which incorporated the substance of my bill, S. 270. S. 735, of course, passed the Senate by a vote of 91 to 8 last June.

Unfortunately, when S. 735 reached the House, the alien terrorist removal provisions of the Senate-passed bill were removed from the legislation. Commendably, however, Senator HATCH steadfastly insisted that the conference committee include an alien terrorist removal section in its conference report on S. 735. Fortunately for our Nation, Senator HATCH succeeded in that effort.

Let me summarize briefly for the benefit of my colleagues what the alien terrorist removal section of S. 735 is all about. The alien terrorist removal provisions of the bill would establish a new, special, judicial procedure under which classified information can be used to establish the deportability of alien terrorists.

The new procedures that are established under section 401 of S. 735 are carefully designed to safeguard vitally important national security interests, while at the same time according appropriate protection to the necessarily limited due process rights of aliens.

Under current law, Mr. President, classified information cannot be used to establish the deportability of terrorist aliens. Thus, when there is insufficient unclassified information available to establish the deportability of a terrorist alien, the Government faces two equally unacceptable choices.

First, the Justice Department could declassify enough of its evidence against the alien in question to establish his deportability. Sometimes, however, that simply cannot be done because the classified information in question is so sensitive that its disclosure would endanger the lives of human sources or compromise highly sensitive methods of intelligence gathering.

The Government's second, and equally untenable, choice would be simply to let the terrorist alien involved remain in the United States.

Sadly, Mr. President, what I have just described is not a hypothetical situation. It happens in real cases. That is why the Department of Justice, under both Republican and Democratic Presidents and Attorneys General, has been asking for the authority granted by my bill—now section 401 of S. 735—since 1988.

Utilizing the existing definitions of terrorism in the Immigration Act of 1990 and of classified information in the Classified Information Procedures Act, section 401 of S. 735 would establish a special alien terrorist removal court comprised of sitting U.S. district judges designated by the Chief Justice of the Supreme Court of the United States. This new alien removal court is modeled on the special court that was created by the Foreign Intelligence Surveillance Act.

Under section 401 of S. 735, the U.S. district judge sitting as the special court would personally review the classified information involved in camera and ex parte.

Where possible, without compromising the classified information involved, the alien in question would be provided with an unclassified summary of the classified information in order to assist him in preparing a defense.

Ultimately, the special court would determine whether, considering the record as a whole, the Justice Department has proven, by a preponderance of the evidence, that the alien is a terrorist who should be removed from the United States.

Finally, Mr. President, any alien who is ordered removed under the provisions of section 401 of S. 735 would have the right to appeal to the U.S. Court of Appeals for the District of Columbia Circuit.

Mr. President, the most serious national security threat that our Nation faces in the post-cold-war world is the scourge of international terrorism. That threat became reality in 1993 with the terrorist attack on the World Trade Center in New York City. Tragically, with the Oklahoma City bombing 1 year ago this week, we learned the bitter lesson that we face the threat of terrorism from domestic extremists as well.

Now, this historic 104th Congress is responding, strongly and effectively, to address the twin terrorist threats that we face. I urge the prompt adoption of the conference report on S. 735 by the Senate and, once again, I commend the conferees for incorporating my alien terrorist removal bill into their landmark legislation.

Mr. LEAHY. Mr. President, I am encouraged that the conference report includes important provisions that I proposed back in June 1995, when the Senate began consideration of antiterrorism legislation. These provisions were adopted by the Senate and then passed as part of the original S.735 and passed a second time last year by the Senate as part of H.R. 665, our version of the mandatory victim restitution legislation. They are now included as sections 231 and 232 of the conference report. It is astonishing that at the time I added these provisions to the bill there were no victims-related measures in any antiterrorism legislation.

When the bomb exploded outside the Murrah Federal Building in Oklahoma City last year, my thoughts and prayers, and I suspect that those of all Americans, turned immediately to the victims of this horrendous act. It is my hope that through this legislation we will proceed to enact a series of improvements in our growing body of law recognizing the rights and needs of victims of crime. We can do more to see

that victims of crime, including terrorism, are treated with dignity and assisted.

The conference report incorporates the provisions of the Justice for Victims of Terrorism Act, which will accomplish a number of worthwhile objectives. They include a proposal to increase the availability of assistance to victims of terrorism and mass violence here at home.

We, in this country, have been shielded from much of the terrorism perpetrated abroad. That sense of security has been shaken recently by the bombing in Oklahoma City, the destruction at the World Trade Center in New York, and assaults upon the White House. I, therefore, proposed that we allow additional flexibility in targeting resources to victims of terrorism and mass violence and the trauma and devastation that they cause.

The conference report includes these provisions to make funds available through supplemental grants to the States to assist and compensate our neighbors who are victims of terrorism and mass violence, which incidents might otherwise overwhelm the resources of a State's crime victims compensation program or its victims assistance services. I understand that assistance efforts to aid those who were the victims of the Oklahoma City bombing are now $1 million in debt. These provisions should help.

The substitute will also fill a gap in our law for residents of the United States who are victims of terrorism and mass violence that occur outside the borders of the United States. Those who are not in the military, civil service, or civilians in the service of the United States are not eligible for benefits in accordance with the Omnibus Diplomatic Security and Antiterrorism Act of 1986. One of the continuing tragedies of the downing of Pan Am flight 103 over Lockerbie, Scotland, is that the United States Government had no authority to provide assistance or compensation to the victims of that heinous crime. Likewise, the U.S. victims of the Achille Lauro incident could not be given aid. This was wrong and should be remedied.

In its report to Congress in 1994, the Office for Victims of Crime at the U.S. Department of Justice identified the problem. Both the ABA and the State Department have commented on their concern and their desire that crime victims compensation benefits be provided to U.S. citizens victimized in other countries. This bill takes an important step in that direction. Certainly U.S. victims of terrorism overseas are deserving of our support and assistance.

In addition, I believe that we must allow a greater measure of flexibility to our State and local victims' assistance programs and some greater certainty so that they can know that our commitment to victims programming will not wax and wane with events. Accordingly, the conference report includes an important provision to increase the base amounts for States' victims assistance grants to $500,000 and allows victims assistance grants to be made for a 3-year cycle of programming, rather than the year of award plus one, which is the limit contained in current law. This programming change reflects the recommendation of the Office for Victims of Crime contained in its June 1994 report to Congress.

I am disappointed that some have objected to an important improvement that would have allowed all unspent grant funds to be returned to the crime victims fund from which they came and reallocated to crime victims assistance programs. I believe that we ought to treat the crime victims fund, the violent crime reduction trust fund, and Violence Against Women Act funds with respect and use them for the important purposes for which they were created.

The crime victims fund, we should remember, is not a matter of appropriation and is not funded through tax dollars. Rather, it is funded exclusively through the assessments against those convicted of Federal crimes. The crime victims fund is a mechanism to direct use of those funds to compensate and assist crime victims. That is the express purpose and justification for the assessments.

Accordingly, I believe it is appropriate for those funds to be used for crime victims and, when not expended for purposes of a crime victims program, they ought to be returned to the crime victims fund for reobligation. Instead, because of a technicality in the application of the Budget Act, the conference report includes a change from the language that I proposed and that was approved by the Judiciary Committee and previously by the Senate. My language would have returned all unspent crime victims grant funds to the crime victims fund. The conference report will require that some of the money that came from the crime victims fund go, instead, to the general Treasury if it remains unobligated more than 2 years after the year of grant award. I am pleased that we have been able to obtain some concession in this regard and note that the unobligated funds must exceed $500,000 in order to revert to the general Treasury.

Fortunately, the Office for Victims of Crime has improved its administration of crime victims funds and that of the States over the past 3 years to a great extent. While more than $1 million a year has in past years remained unobligated from grants made through the States across the country, in 1994 that number was reduced below $125,000. The Director of the Office for Victims of Crime, Aileen Adams, should be commended for this improvement. It is my hope that the administration of crime victims fund grants will continue to improve through the Department of Justice and the States and that the Department of Health and Human Services will, likewise, improve its oversight and grant administration and encourage the States to be more vigilant. If so, the change in the language of the bill from that previously adopted by the Senate and by the Judiciary Committee will not result in a significant diversion of crime victims fund money to other uses.

I also regret that the emergency reserve is not structured as I recommended. I would limit the reserve to the highest level of annual deposits placed in the fund in the past 5 fiscal years. This would allow the emergency reserve to fulfill its purpose as a rainy day fund and smooth the distribution of aberrational deposit pattern. Further, I hope that we will soon reconsider the 40-percent cap of Federal contributions to State victim compensation awards and other suggested improvements to the Victims of Crime Act.

Our State and local communities and community-based nonprofits cannot be kept on a string like a yo-yo if they are to plan and implement victims assistance and compensation programs. They need to be able to plan and have a sense of stability if these measures are to achieve their fullest potential.

I know, for instance, that in Vermont Lori Hayes at the Vermont Center for crime victims Services, Judy Rex at the Vermont Network Against Domestic Violence and Sexual Abuse, and many others provide tremendous service under difficult conditions. I was delighted to be able to arrange a meeting between them and the Attorney General of the United States when Attorney General Reno recently visited Vermont. They will be able to put increased annual assistance grants to good use. Such dedicated individuals and organizations will also be aided by increasing their programming cycle by even 1 year. Three years has been a standard that has worked well in other programming settings. Crime victims' programming deserves no less security.

In 1984, when we established the crime victims fund to provide Federal assistance to State and local victims' compensation and assistance efforts, we funded it with fines and penalties from those convicted of Federal crime. The level of required contribution was set low. Twelve years have passed and it is time to raise that level of assessment in order to fund the needs of crime victims. Accordingly, the conference report includes as section 210 a provision that I worked on with Senator MCCAIN and that the Senate previously passed as an amendment to the antiterrorism bill last summer. It doubles the special assessments levied under the Victims of Crime Act against those convicted of Federal felonies in order to assist all victims of crime.

I do not think that $100 to assist crime victims is too much for those individuals convicted of a Federal felony to contribute to help crime victims. I do not think that $400 is too much to

insist that corporations convicted of a Federal felony contribute. Accordingly, the conference report would raise these to be the minimum level of assessment against those convicted of crime.

While we have made progress over the last 15 years in recognizing crime victims' rights and providing much-needed assistance, we still have more to do. I am proud to have played a role in passage of the Victims and Witness Protection Act of 1982, the Victims of Crime Act of 1984, the Victims' Rights and Restitution Act of 1990, and the victims provisions included in such measures as the Violent Crime Control and Law Enforcement Act of 1994. I thank my colleagues for their acceptance of the provisions of the Justice for Victims of Terrorism Act.

I thank the outstanding crime victims advocates from Vermont for their help, advice, and support in connection with the Justice for Victims of Terrorism Act and the improvements it includes to the Victims of Crime Act. I also thank them for the work they are doing by developing and implementing programs for crime victims in Vermont.

In addition, I thank the National Organization for Victim Assistance, the National Association of Crime Victim Compensation Boards, and the National Victim Center for their assistance and support in the development of the Justice for Victims of Terrorism Act. Without their help, we could not make the important progress that its provisions contain. I appreciate the cooperation of all those who have worked to incorporate these improvements to the Victims of Crime Act in this measure.

It is important to me that we do all we can to bring stability to the crime victims fund so that the State programs for compensating and assisting victims of crime can plan and provide services for victims that increase and expand across our States in the coming years. I hope that we can continue to cooperate and refine the Victims of Crime Act's provisions.

Mr. FEINGOLD. Mr. President, it has been nearly 1 year since America was shocked and outraged by the bombing in Oklahoma City.

The anguish and the pain caused by this cowardly act left a marked impression on each of us which remains today.

That which had formerly been reserved for distant parts of the globe—acts of savage terrorism—was now being visited upon the citizens of this Nation.

There can be no debate that we must respond to these acts, as we must all acts of crime, with the singular and unyielding purpose of capturing, prosecuting and punishing the responsible individuals.

Unfortunately, in the 12 months that has passed since Oklahoma City, this legislation has been subject to many varied interests—interests placing certain proposals above the underlying goal of responding to terrorism in the measured and focused manner necessary to protect the citizens of this Nation.

Unfortunately, many of the proposals which have been offered throughout this debate to combat terrorism simply went too far and placed the civil liberties of all Americans in peril.

For this simple reason I opposed language included in the Senate bill which would have expanded the scope of wiretap authority and would have injected the military into areas of law enforcement which are better left to local officials.

I am concerned that these provisions move us toward unwarranted expansion of Federal power. Accordingly, I support the removal of these provisions from the final package.

However, just as some of those proposals overstepped the boundaries of civil liberties, the final conference report remains flawed.

Careful review of this legislation reveals that it contains very few substantive provisions which would have prevented or helped prevent the Oklahoma City tragedy.

As I said when the Senate considered this legislation last summer, it is essential that law enforcement be given the resources and support necessary to investigate and prosecute terrorists.

To truly protect citizens of this Nation, terrorists must be stopped before they strike—before they take innocent lives in some misguided effort to prove the validity of their agenda.

That is why I am so troubled when I hear the suggestion that the single most effective antiterrorism provision in this bill is the alleged reform of habeas corpus.

The link between habeas corpus and keeping the people of this Nation free from acts of terrorism is tenuous at best. The argument that these habeas provisions will prevent another Oklahoma City is one which is manufactured solely to justify inclusion of these unrelated provisions in a bill originally meant to address terrorism.

These so-called habeas reforms will do nothing to rid our communities of dangerous persons who may strike against innocent people.

The only time habeas corpus is even remotely related to terrorism is after the terrorist has committed an act of terrorism, has been apprehended, convicted and is sitting in a prison cell.

Once again political expediency has obscured sound policy making. In the words of the New York Times, ''Members of Congress are exploiting public concerns about terrorism to threaten basic civil liberties.''

Many of my colleagues want very sincerely to address what they perceive to be abuses in the use of habeas corpus. These efforts, however, should not be hidden behind the unsustainable claim that doing so in anyway makes the people of this Nation less likely to be attacked by terrorists.

Further, the provisions in the conference report go well beyond reform and eviscerate the constitutional underpinnings of habeas corpus. Just as many of the law enforcement provisions went too far, so too do the habeas provisions.

By setting unreasonable limitations and standards of review available on appeal of constitutional violations, this bill greatly enhances the potential that this Nation will execute an innocent person for a crime they did not commit.

I do not disagree with my colleagues who argue that justice must be served. The families of the victims and the American people deserve as much. However, the pursuit of justice does not require us, as these habeas provisions do, to depart from over 200 years of constitutional protections.

Justice is not served by the execution of an innocent human being. The families of the victims and the American public will find no comfort from such an occurrence.

Like so many facets of this bill, the habeas provisions of this bill lack any semblance of reasonable balance.

A recent March 20 editorial from the Milwaukee Journal Sentinel entitled ''A needless overreaction to terrorism'' criticized these provisions and pointed out the fallacy of the alleged link between habeas reform and terrorism or that these provisions will have any deterrent effect.

In the words of the Journal;

It's difficult to see how limits on appeals by prison inmates would deter terrorism. Most such prisoners have been convicted of ordinary—not political—crimes. Besides, many terrorists are willing to undergo punishment, even death, for the causes they believe in.

The inclusion of habeas reform in this legislation has very little to do with terrorism and a great deal to do with advancing an agenda which has previously languished in the Congress.

Just as I opposed those law enforcement provisions which raised constitutional concerns, so too do I oppose these proposals.

We should be just as wary of proposals which forsake constitutional protection in the name of habeas reform as we are of those which do so in the name of expanding wiretap authority.

Mr. President, it is very likely that this conference report will become law. This is unfortunate. Not simply because bad provisions of this bill will become bad law, but because this bill represents an opportunity squandered.

This legislation started as an effort to address terrorism—to provide some protection for the citizens of this Nation against acts of terrorism. The American people deserve as much. Sadly Mr. President, for all the fanfare which will likely accompany this legislation, it fails to meet that laudable and important goal.

Mr. HEFLIN. Mr. President, I will support passage of the Terrorism Prevention Act Conference Report. Although the conference report is not as

strong as the Senate-passed bill, nor is it as strong as I would like, it is much stronger than the House-passed bill and reflects a compromise between the two houses which is an essential element of our Nation's democratic process.

It is fitting that we enact this legislation around the anniversary of the tragic bombing which occurred in Oklahoma City and resulted in such a massive loss of life and injury to innocent people. We must enhance our Nation's efforts to combat domestic and international terrorism, and the conference report is a step in the right direction.

I am pleased that the conferees were able to restore many provisions which the House-passed bill deleted, such as allowing courts to expeditiously deport alien terrorists, allowing the President to designate foreign terrorist organizations so any assets they have in the United States can be more easily frozen by the Government, and making it a crime to donate or accept funds for foreign terrorist organizations. Further, the House-passed bill contained almost no funding for Federal law enforcement, and the conference report has a funding level of $1 billion for Federal and State law enforcement over a 4-year period.

The conference report contains a provision to require taggants be placed on plastic explosives, which are most commonly used by foreign terrorists, thereby making them more detectable, and it calls for a study on placing taggants on other types of explosives.

I would have preferred that the conference report contained the Senate-passed provisions allowing for multipoint wiretaps and other strong provisions, but this did not occur and motions to recommit the bill to conference with instructions to include those provisions have been unsuccessful. This is the democratic process, and I accept the will of the Senate.

That does not, however, leave this legislation a toothless tiger. It contains strong provisions to reform Federal habeas corpus laws—something that is long overdue. Reform of the habeas corpus process will speed up the imposition of sentences of those criminal convicted of especially brutal crimes. Overall, the conference report is a step in the right direction, and I urge its passage so that it can be signed by the President and allow our Nation to enhance its efforts to combat both domestic and international terrorism.

Mr. BRADLEY. Mr. President, I rise in support of the conference report to S. 735, the Antiterrorism and Effective Death Penalty Act of 1996. Almost 1 year ago today, the Oklahoma City bombing brought into sharp focus the reality and horror of domestic terrorism in America. The death toll of the bombing stands at 167, making it the deadliest mass murder in the history of the United States.

While several strong crime fighting provisions that I supported in the Senate version of the bill were deleted by the conference committee, this legislation contains tools that will enable the United States to respond to the international and domestic terrorist threats and prosecute these despicable criminal acts. On balance, Mr. President, this legislation will enhance the ability of law enforcement to combat both foreign and domestic terrorism.

Mr. President, the provisions in this bill are vitally important to our efforts to respond to international and domestic threats of terrorism. I, therefore, support this bill, and I am confident that because of our actions today, America will be more fortified against the evils of terrorism.

Mr. CHAFEE. Mr. President, for the last day and a half, the Senate has been debating the antiterrorism bill conference report. During debate, a number of motions to recommit the legislation to conference were offered.

I voted against all of them—even those with which I agree on the substance. In this situation sending the bill back to conference would not be simply a matter of adding back provisions that we in the Senate like. Sending the bill back to conference would reopen the legislation to countless changes that the House might, in turn, demand that the Senate accept.

Obviously this conference report is not perfect. No bill is. Frankly, there are some provisions I wish were still in there, and others I would gladly see dropped. For example, I would have liked to see in the final bill the Boxer amendment on the statute of limitations for firearms violations. But I recognize that the nature of a conference is compromise. And therefore the package before us is the only one on which we can act.

In conclusion, I might add, I do not believe that the door is finally shut on amendments such as the Boxer amendment. We can hopefully revisit that amendment on another bill.

Mr. BROWN. Mr. President, I rise today in support of the conference report on the Terrorism Prevention Act. This bill takes many important steps in the fight against terrorism. In particular, several key provisions will significantly strengthen U.S. efforts to combat international terrorism. In recent years, attacking terrorism has taken a back seat in U.S. foreign policy. Attacks have been waged against innocent people and allies across the world, and yet terrorists are invited to the White House where their violent rhetoric has been conveniently overlooked.

In January 1994, Gerry Adams, the leader of the Irish-national political organization Sinn Fein, was granted a visa on a Presidential foreign policy waiver to travel to the United States. In doing this, the National Security Council overruled a unanimous recommendation from the Department of State, the Department of Justice, and the intelligence community that the waiver should not be granted due to the fact that neither Adams nor the Irish Republican Army have really renounced violence in theory or in practice. This exception represents the current administration's ability to pay lipservice to stopping terrorism while failing to achieve substantive results.

In the past, Adams had been denied a visa eight times by previous administrations because of his affiliation with the terrorist organization. But since obtaining a visa in January 1994, Adams has received seven additional visas from the Clinton administration, was received by State Department officials, introduced to National Security Advisor Anthony Lake, raised money throughout the United States while touring in March 1995, and celebrated St. Patrick's Day in the White House. All of this transpired even though he has yet to renounce the use of violence to achieve political goals or denounce the plague of terrorist bombings in Great Britain.

We cannot continue to project such an inconsistent and unflattering testament of our commitment to fight terrorism. The legislation we now consider addresses many of the shortcomings in our ability to deal strongly and effectively with terrorism. The provisions in S. 735 will significantly strengthen our authority to combat international terrorism, and three sections in particular are worth noting.

Section 221 of this bill amends the Foreign Sovereign Immunities Act to permit jurisdiction of U.S. courts for lawsuits against terrorist states, as designated by the Secretary of State. Under current law, U.S. citizens are barred from suing foreign governments or state-owned foreign enterprises unless the alleged injury is directly related to the commercial activity of the foreign government. In other words, American citizens can be tortured or murdered in a foreign state by agents of that state, and if that state provides no effective legal remedy, the American victims and their families have no enforceable legal remedy either in the United States or anywhere else in the world. The provision in section 221 will now allow victims of terrorism, hostage taking or torture abroad, or their survivors, to seek restitution against a state sponsor of terrorism when they are unable to gain relief in the courts of the country involved.

This provision provides vital remedies for victims. Just last summer a United States district court barred survivors of Pan Am 103 victims from suing Libya even though the United States Government had found Libya to be directly responsible and two Libyans had been indicted in United States court for the crime.

It is important to note that section 221 provides a responsible avenue for victims to seek just compensation. This is a powerful and significant tool that should be used cautiously. Thus the legislation limits the scope of jurisdiction to only those countries who have been identified as state sponsors

of terrorism. Sovereign immunity is designed to protect nations from being dragged into another nation's courts for legitimate sovereign acts. The international community, however, does not recognize the right of any state to commit acts of torture, extrajudicial killing, aircraft sabotage, or hostage taking. Sovereign immunity is an act of trust among nations of good faith. When a terrorist state harbors or supports known terrorists, or injures or kills American citizens, it destroys that trust and should not be allowed to avoid the accusations of those it harms.

Beyond ensuring that American citizens have recourse after brutal terrorist acts, this section represents a vital counterterrorism measure. I am confident that the threat of enforceable judgments and levies against assets from U.S. courts will be a significant inducement for countries to get themselves off of the State Department's terrorist list.

Section 323 also provides an important tool in combating international terrorism. As a result of international pressures against states which provide support to international terrorists, some terrorist groups are seeking other means of financing and support, such as raising funds from sympathizers or establishing front companies. During its investigation of the Bank of Credit and Commerce International [BCCI], the Senate Foreign Relations Committee unearthed a significant trail of funding through BCCI that demonstrated the importance of international financial networks in the support of illegal and terrorist activity abroad. The bank hosted many illegal, unsafe, and unsound banking practices, as well as acting as a front for worldwide arms deals, drug deals, and assistance to various groups linked directly or indirectly to terrorist activity. Section 323 will enable U.S. prosecutors to begin to crack down on the use by terrorist groups of international financial institutions and front companies for their material support.

This provision would create a new offense of providing material support or resources, or concealing the nature, location, source, or ownership of material support or resources, for various terrorist-related offenses. Currently, an individual responsible for building a bomb or taking someone hostage can be prosecuted for their activities, but those providing financial or technical support, or harboring terrorists after the crime, can escape punishment of any kind. Section 323 criminalizes a series of offenses by recognizing all forms of meaningful assistance and material support to terrorists.

It amends current law which was originally offered with the same intent as section 323, but was severely weakened in conference, rendering it virtually ineffective. This language strengthens current law by restoring the original intent of punishing all persons involved, to whatever degree, in terrorist activities.

Finally, section 411 which allows the exclusion of alien terrorists from the United States is an extremely important tool in combating international terrorism. Currently we have a loophole in our immigration law that permits the United States to issue visas to know members of terrorist organizations. How can America expect to condemn other nations who support terrorists without first taking action to limit the organizational efforts of known terrorists in the United States? We must slam the door on foreign members of such terrorist organizations who now freely travel to our country.

The case of Sheikh Rashid Ghanoushi's application for a visa to the United States highlights the far-reaching consequences of our limited exclusionary authority. Ghanoushi is an Islamic extremist whose terrorist organization was responsible for the deaths of many innocent tourists in Tunisia. He was convicted in absentia.

Nonetheless, in 1993, he applied for a visa to travel to the United States to speak to religious and academic audiences. In June 1994, the Government of Tunisia indicated that it would regard a United States decision to admit Ghanoushi as a hostile act. Furthermore, in the past Ghanoushi has urged violence against United States interests and continues to demand Israel's destruction. Yet the United States has still not issued a final decision about whether to grant a visa to him, claiming lack of authority to deny him entry. At present, Ghanoushi's case is under active review by the State Department.

It is well known that many foreign terrorist groups depend on money raised in the United States to fund their activities abroad. Terrorist activity should not be defined by the area in which a bomb explodes.

Our Nation, with its many democratic freedoms, represents fertile ground for terrorist organizations for fundraising, organizational support, and international recognition. Many of these terrorists organizations have already developed networks of support in our country.

The existing loophole in the Immigration Act of 1990 permitting members of terrorist organizations to come to the United States fostered an atmosphere of indecisiveness. It sends the wrong signal to the international community. The provisions in section 411 correct this inconsistency and effectively strengthen our authority to combat terrorism and keep those people who are members of terrorist organizations off of U.S. soil.

In the past decade, Americans have suffered numerous terrorists attacks. Without the authority and support created by S. 735, particularly the three sections I highlighted, we will continue to needlessly hamstring our ability to protect American citizens. Enough is enough. It is time to take bold steps to protect American citizens from the threat posed by terrorism. We know the obstacles currently facing us in the fight against international terrorism. S. 735 provides the tools and the authority necessary to wage an effective defense.

Mr. DODD. Mr. President, this Friday will be the first anniversary of the brutal and cowardly bombing of the Alfred P. Murrah Federal Building in Oklahoma City. One hundred and sixty-nine Americans, including 19 children tragically lost their lives in this terrible act of domestic terrorism.

A year later, that terrorist bombing continues to tear at the Nation's soul. As we continue to mourn the loss of so many innocent lives, our hearts go out to the survivors, the families of the victims and the courageous residents of Oklahoma City who have already begun the difficult healing process.

However, part of the process of healing begins with the pursuit of justice. And for the past year, law enforcement officials have tirelessly labored to see that the full force of the law is brought to bear on the guilty parties. And soon, the trial against the alleged bombers will begin.

But, as we continue the process of providing answers to this terrible tragedy—the deadliest terrorist attack on American soil—we must find new and innovative ways to prevent such acts in the future. That's what this bill is all about.

While no one will argue that this legislation, or for that matter any legislation, will finally and completely end terrorism, we must take the necessary steps to deter terrorists from their deadly actions. We must make it more difficult for them to kill and injure. And we must ensure that they are swiftly brought to justice.

President Clinton deserves praise for moving forcefully in that direction by submitting a comprehensive counterterrorism proposal to Congress, after the Oklahoma bombing.

Unfortunately, in the year since the President introduced that proposal, Congress has dragged it's feet on this legislation. What's worse, I believe, many of the strongest elements of this bill have been watered down or eliminated by the House of Representatives.

Several provisions that would make it easier for law enforcement agencies to utilize multipoint and emergency wiretaps against suspected terrorists were removed.

The failure to include these wiretap provisions in the final conference report create a situation where it is easier for the FBI to tap the phone of someone they suspect of bribing a bank officer than someone who may be prepared to engage in a terrorist act.

What's more, this conference report prevents the Attorney General from requesting technical and logistical support from the military if our Nation faced an emergency involving biological and chemical weapons.

This provision was deleted even though I think everyone in this body

would agree that the military has far more expertise in matters of chemical and biological weapons than our law enforcement agencies.

It's particularly disheartening that while these provisions were overwhelmingly agreed to by the Senate, they were removed from the final conference report because of the intransigence of the other body.

Similarly, while we need to find ways to prevent prisoners from abusing the legal process, by filing meritless appeals, we must ensure that those people who have been unfairly convicted have some legal recourse.

Unfortunately, I believe that the habeus corpus reform measures in this bill are ill-advised. They limit the ability of inmates to raise claims of innocence based on newly discovered evidence and also require Federal courts to defer to State courts on issues of Federal constitutional law raised by these claims.

However, while I feel this legislation could be further strengthened if it were recommitted to the conference, there are enough positive elements in the bill that allow me to vote for it.

This counter-terrorism legislation provides Federal law enforcement officials with the proper means to investigate and prevent terrorism. It establishes new Federal offenses to ensure that terrorists do not elude justice through gaps in the current law.

Similarly, it increases penalties for terrorist actions. And it gives new assistance to victims of terrorist attacks, including provisions that will make it easier to bring lawsuits against States that sponsor terrorism. Combined, these steps will give law enforcement important new tools to use in the fight against terrorism.

Although it is not perfect, this bill will not only help the Nation prevent terrorist acts but it will also help hold terrorists accountable for their actions.

The bombing in Oklahoma made clear just how vulnerable we all are to these terrible acts of violence. And ultimately, I believe this legislation will make Americans safer from the scourge of international and domestic terrorism.

Mr. WARNER. Mr. President, I rise in support of this conference report which embodies compromise antiterrorism and anticrime legislation. I recognize that many Members would like to see additional provisions added. We have waited too long, however, to allow this opportunity to pass without enacting legislation which will help us avoid additional disasters such as Oklahoma City and the World Trade Center bombings. I thus support this conference report as it stands and will continue to work to pass additional measures which will combat terrorism, whether sponsored by foreign entities or by domestic extremists.

This bill provides $1 billion for enhanced law enforcement efforts, both at the Federal and State levels, to combat terrorism. Plastic explosives will be required to be tagged with materials which can be tracked back to the source in the event of a bombing. Foreign terrorists will be denied the opportunity to raise money inside the United States, and if found here, will be subject to special, but constitutional, deportation proceedings. The bill also includes numerous important and noncontroversial provisions which will remove legal impediments to combat terrorism.

This bill also contains one of the most important anticrime and judicial reform measures passed in years. Finally, the charade of habeas corpus appeals will be reformed: death row inmates will no longer be allowed to drag out their appeals for several decades. I have faith that our State courts respect our constitutional rights, and in the exceptional case where Federal rights have been violated, defendants retain very reasonable access to Federal courts to prove their innocence.

We have come to a crossroads in this debate almost 1 year after the tragedy in Oklahoma. Either we pass this bill and begin reaping the protections it will provide us in the fight against terrorists, or we throw up our hands and give up. I believe we need this bill now and I commend the efforts of Senator HATCH and others to reach a reasonable consensus which can pass both houses and be signed into law by President Clinton.

Mr. PELL. Mr. President, today, as the Senate considers the conference report to S. 735, the Antiterrorism and Effective Death Penalty Act of 1996, I regret that as I did when this bill was presented for passage in the Senate, I again must oppose the final version of the bill. I do so for two basic reasons.

First, the conference did nothing to change those provisions of the bill which drastically curtail the Federal judicial protections afforded those given the death penalty in State courts. This is a departure from a longstanding tradition in English and American jurisprudence and, as an opponent of the death penalty, I feel I cannot in good conscience support it.

Second, the conference removed several of the most effective antiterrorism measures that were included in the Senate version of the bill. These include giving the FBI the ability to employ court-approved multipoint wiretaps, adding terrorism crimes to the list of those for which wiretaps can be approved, including terrorism crimes under RICO statutes, and permitting the use of military expertise to cope with either chemical or biological weapons of mass destruction. Without these provisions, I believe that the bill has been severely compromised and, in the process, the chance to do something truly meaningful about domestic and international terrorism in this bill has been lost.

Accordingly, I believe that the conference report fails to correct the deficiencies of the legislation that left the Senate last summer and furthermore, has eliminated many of its most effective counterterrorism provisions. Thus, I continue to oppose passage of this legislation.

Mr. LEVIN. Mr. President, I will vote for S. 735, I am distressed that a number of the strongest antiterrorism provisions of the Senate bill were dropped in conference with the House. For example, I am disappointed that the conference report would not—Provide the Attorney General the enhanced tools for fighting domestic and international terrorism that were requested by the administration and included in the Senate bill; permit the Attorney General to utilize the expertise of the military in investigations of crimes involving the use of chemical and biological weapons; or prohibit the dissemination of information on making explosive materials with the knowledge that the information will be used for criminal activities.

On balance, however, I conclude that the antiterrorism provisions in the bill, viewed as a whole, are still worth enacting.

The habeas corpus provisions of the bill are also problematical. Under the conference report, an application for a writ of habeas corpus may be granted if the underlying State court decision was ''contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States.''

I interpret the new standard to give the Federal courts the final say as to what the U.S. Constitution says. I reach this conclusion for two reasons.

First, several Members have raised the concern that the reference in the bill to an unreasonable application of Federal law could create two different classes of constitutional violations—reasonable and unreasonable. I vote for the bill because I have confidence that the Federal courts will not do this. I believe the courts will conclude, as they should, that a constitutional error cannot be reasonable and that if a State court decision is wrong, it must necessarily be unreasonable.

Second, I note that this provision permits a Federal court to grant a petition for habeas corpus if the State court decision was contrary to Federal law. I interpret this language to mean that a Federal court may grant habeas corpus—on a first petition—any time that a State court incorrectly interprets Federal law and that error is material to the case. In other words, if the State court's interpretation of the U.S. Constitution is wrong, this standard authorizes the Federal courts to overturn that interpretation.

The provision in the bill refers to ''clearly established Federal law, as determined by the Supreme Court of the United States.'' I understand this provision to refer to the whole body of Supreme Court jurisprudence on substantive and procedural rights. If the Supreme Court has adopted a clear rule

of law and that rule has been consistently interpreted and applied by the courts of appeals, that rule—and its consistent interpretation and application—would prevail in habeas corpus proceedings.

In sum, Mr. President, I believe that this standard can be interpreted in a manner that is consistent with the fundamental duty of the Federal courts to act as the final interpreters of the meaning of the U.S. Constitution, and to protect the constitutional rights of Americans.

UNANIMOUS-CONSENT AGREEMENT

Mr. HATCH. Mr. President, I ask unanimous consent that the only remaining motions to recommit in order to the pending conference report be the following: Two additional Biden motions; further, that the motions be limited to the restrictions previously agreed to, and that following the debate on all motions and the conference report, the Senate proceed to vote on or in relation to the pending motions, to be followed by a vote on the adoption of the conference report, all without any intervening action or debate, with the exception of using 6 minutes, equally divided, for debate prior to the final passage vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, I am offering a motion to recommit the conference report with instructions to add provisions relating to a third type of wiretap that was deleted, referred to as an emergency wiretap.

I send the motion to recommit the conference report to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] moves to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the following:

SEC. . REVISION TO EXISTING AUTHORITY FOR EMERGENCY WIRETAPS.

(a) Section 2518(7)(a)(iii) of title 18, United States Code, is amended by inserting ''or domestic terrorism or international terrorism (as those terms are defined in 18 U.S.C. 2331)'' after ''organized crime''.

(b) Section 2331 of title 18, United States Code is amended by inserting the following words after subsection (4):

''(5) the term 'domestic terrorism' means any activities that involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State and which appear to be intended to intimidate or coerce a civilian population or to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by assassination or kidnapping.''.

(c) This section shall be effective one day after enactment of this Act.

Mr. BIDEN. Mr. President, I do not plan on taking the entire allotted time on this side with this motion.

Let me be real clear about this. This provision was not in the Senate bill. It was offered by Senator LIEBERMAN, and it was strongly supported by many in this body. But it was not in the original Senate bill.

This provision incorporates the President's proposal to expand emergency wiretap authority. Today, emergency wiretap authority is available for organized crime cases. This proposal simply makes it available for terrorism cases. This proposal says that what is fair for the mob is fair for Hamas. What is good for John Gotti is good for any terrorist from abroad. What is good for those involved in organized crime is good for terrorists. If the justification exists for organized crime in and the mob, why does it not exist for crimes of terrorism?

Let me first explain what an emergency wiretap is, because understandably a lot of people—I know many, like the Senator from Utah and the Senator from Pennsylvania, Senator SPECTER, and the Senator from Vermont, Senator LEAHY, all former prosecutors understand these wiretap requirements, but many do not.

An emergency wiretap—I will explain more precisely not only what it is but how it is limited. First of all, in all cases—or in most cases—the Government must go to a judge to get a court order before it can initiate a wiretap. But at the same time, Congress recognized there are emergency situations where time is of the essence and that completing the necessary paperwork and getting the judge's order will simply take longer than the situation allows.

I have gone through today probably a half hour's worth laying out precisely the safeguards built into getting a wiretap for a crime that is listed in the Criminal Code as being able to get a wiretap for, and how long and difficult the process is and should be. But the Congress in the past has recognized that there are situations under current law which allow the Government to initiate a wiretap without a court order. Here are the circumstances: where immediate danger, death, or serious physical injury exists; where conspiratorial activities threaten the national security, or a conspiratorial activity characteristic of organized crime activities exist.

Only the top three Justice Department officials—the Attorney General, the Deputy Attorney General, and the Associate Attorney General—have the authority under the present law to issue or to authorize any emergency wiretap.

If the law stopped there, I would agree with those who object to this amendment. I would agree that it does not go far enough to protect our civil liberties if all it said was one of the three top the Justice Department officials can initiate a wiretap. But the law does not stop there now. It does not allow Federal officials to operate on their own for long. Indeed, it requires that if the Attorney General authorizes an emergency wiretap for any one of those three circumstances I mentioned, they must nonetheless go before a Federal judge within 48 hours and make a case that probable cause exists for this wiretap prior to the authorization of the wiretap, prior to the time the tap started. Prior to that time, they have to prove there is probable cause that the subject was committing a specific crime. The officials also must convince the judge that they could not have completed the necessary application prior to beginning the wiretap.

And, of course, if the judge concludes that either they could have completed the application in the necessary time or that there was no probable cause at the outset, then none of the evidence, no matter how incriminating, that is acquired as a consequence of the emergency tap can be used in court against the target. If the judge does not buy it, enforcement will have blown their case. Not only must the wiretap stop, but none of the evidence obtained by the tap can be used against the target.

This is a powerful check on the Government's power. You can bet that they are not just going to go around willy-nilly exercising—the top three officials of the Justice Department—emergency authority because, if they do, they will lose their evidence if they turn out to be wrong, which means they will lose their case, which means the bad guys go free and all the time investigating up to that point will have been wasted and blown. That is not what law enforcement wants.

I want to repeat. Why, if we give this authority, this very limited and proscribed emergency authority to the Government, to the prosecutors, to the Attorney General of the United States, to deal with organized crime, why does it not make sense to allow them to deal with Hamas or deal with a terrorist organization?

The last time I looked, the Mafia had not blown up a Federal building. The last time I looked, the Mafia had not blown up the World Trade tower. They are real bad guys, and I have spent the bulk of my career as a U.S. Senator on both the Intelligence Committee and the Judiciary Committee passing laws and working to nail the Mafia. But if an emergency wiretap is good enough for John Gotti, why is it not good enough for the Unabomber? If the emergency wiretap is good enough for John Gotti, why is it not good enough for some wacko who blows up or is about to blow up a Federal building in Wilmington, DE, or Washington, DC?

I want to repeat. To give this authority to the Government when it comes to organized crime, why not for terrorists?

Of course, wiretapping is a powerful and intrusive tool. That is why the current wiretap statute contains a number of restrictions to prevent the abuse of emergency wiretaps, none of which would be changed by this amendment.

Let me repeat. Only the top officials at Justice—the top three, those who have the most at stake in an investigation being blown by bad evidence—can authorize such a tap. Even then, they have to go to the court within 48 hours and must adhere to all the strict guidelines for getting a court order in the first instance. If they do not get the court order, none of the evidence is able to be used.

Let me emphasize. This amendment does not in any way weaken what the Government must show to get a wiretap order. Law enforcement still must show that some particular person has or is about to commit some particular crime. And this provision only applies to cases of international domestic terrorism, which is further defined as—let me define what this would apply to and only what it would apply to: activities that involve violent acts, or acts dangerous to human life, and which appear to be intended to intimidate or coerce the civilian population, or to influence the policy of the Government by intimidation or coercion, or to affect the conduct of a Government by assassination or kidnapping.

Why, if in fact they believe that any one of those circumstances exist, should they not, with all the safeguards built in, be able to get an emergency wiretap?

Let me say, although I have no illusions that this will pass, that I hope we will continue to demonstrate by the votes we have heretofore—over 45 and as many as 48 of our 100 colleagues felt strongly about these issues. These are not frivolous undertakings. These are not frivolous motions. All but one of the amendments I have offered, I believe, has gotten over 40 votes. I think they have all gotten over 45 votes, so we are pretty evenly divided on this. I just want to make sure that before final vote on this conference report, that I do everything in my power to make this a much more useful tool in fighting terrorism.

Again, I know my colleague—and I respect him—is going to say if this passes it will kill the bill. I cannot believe that this will kill the bill. If we cannot put 35, or whatever number that is the number quoted by the House, Members of the House in the position where they have to yield on what would be an incredibly strong bill only because they are worried that we now allow terrorists to be treated the same way as John Gotti and the mob, then I think—I doubt whether they will vote that way because I doubt whether many of their constituents will keep them around if they vote that way. And quite frankly, if they vote that way, it is best for all to see. If they vote that way and defeat the conference report, we could come back with an amended report and pass what we have. So this will not kill the bill, but I am sure that is going to be stated.

I reserve the remainder of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Utah.

Mr. HATCH. Mr. President, again, in the real world, in the case of the Unabomber or a terrorist where there is a real threat or an immediate concern, you do not need this provision to get an emergency wiretap. All the Senator's motion does is expand the number of crimes that would trigger the wiretap statute. This amendment was offered during the Senate debate. It was defeated. It was not a part of the Senate bill. It was not a part of the House bill. It is not a part of our conference report, and rightly so. I oppose this provision that could expand emergency wiretap authority to permit the Government to begin a wiretap prior to obtaining court approval in a greater range of cases than the law presently allows. I personally find this proposal troubling. I am concerned that this provision, if enacted, would unnecessarily broaden emergency wiretap authority. Under current law, such authority exists when life is in danger, when the national security is threatened, or when an organized crime conspiracy is involved. In the real world, we do not need this amendment to get emergency wiretap authority, and that is a fact.

Let me also say that this authority is constrained by a requirement that surveillance be approved by the Court within 48 hours, but that authority already exists in those areas I have addressed.

Now, this proposal of the distinguished Senator from Delaware would expand those powers to any conspiratorial activity characteristic of domestic or international terrorism. I do not think that expansion is necessary to effectively battle the threat of terrorism. You can get that emergency authority now. In the Unabomber case, no question; when terrorist acts are threatened, no question. I think that the opinion of many, many experts would agree with this analysis.

Now, it is also very important to note that it is not 35 conservatives over in the House that are against this. The vast majority of people against this amendment happen to be liberals who are very concerned with an unwarranted expansion of wiretap authority and surveillance authority. I have to say now there is an increasing number of libertarian conservatives who are becoming more concerned over law enforcement and some of the approaches that have been taken. I personally believe that those concerns are not justified.

On the other hand, they are legitimate concerns, and they arise primarily out of the Waco and Ruby Ridge and Good Ol' Boys Roundup, and other types of law enforcement mistakes that really were made. I have called them mistakes. Some people have felt that they should be characterized a little stronger than that.

Frankly, I am proud of the law enforcement agencies of this country. I know these people. I know what wonderful people they are. I know how much they risk their lives for you and me. But we do not need this authority in order to do emergency wiretaps in these particular areas.

At this point, I should like to yield 5 minutes to the distinguished Senator from California, who has asked me for some time.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I very much thank the distinguished chairman of the Judiciary Committee for this opportunity. I did have an opportunity to speak yesterday, but there is something I omitted to say that I very much felt was part of this discussion.

What happened in Oklahoma City was brought home to us in California last Friday. Early that morning, about 9 o'clock, there was a phone call that came into the Vacaville headquarters of the Labor Department's Mine Safety Administration, and the caller said, using some expletives, ''You guys are all dead. Timothy McVeigh lives on.''

Later that afternoon, a mine safety inspector by the name of Gene Ainslie, who worked with the Department of Labor, was returning from inspecting a mine in Sierra County and he dropped off his official car. He got into his pickup truck, met his wife, started out on Interstate 80 to return to Sacramento, and the pickup truck exploded. A bomb had been placed on that truck.

Gene and Rita Ainslie are hospitalized today in serious condition—actually, today is their 32d wedding anniversary—Gene, with shrapnel in his legs and severe burns, and his wife with a broken ankle and a dislocated hip, but they survived. I and every Member of this body send them our fondest greetings and let them know that our hearts and thoughts are with them both.

This was not a random act of violence. It was not a deranged individual on a shooting spree. It was a deliberate and, once again, targeted attack on a representative of the U.S. Government, an attack that was aimed at murdering a Federal employee. This is not an isolated incident, and we have all seen them happening. There will be a study that will released very shortly, an annual study of terrorism. And what it will show is that, for the first time, the United States of America is listed among the top 20 nations experiencing the highest level of terrorism and political violence in the world.

I was shocked when I heard this. According to the study, there were 44 incidents reported to the authorities in the United States, an increase of 200 percent since 1988. With this number of incidents, according to this study, we ranked ahead of Lebanon.

I only say this because of the particular pertinence of the legislation before us today. We relate the legislation to the Oklahoma City bombing a year

ago, but in fact even last Friday an incident took place in the State of California.

I think we also need to look at what is happening in our society that is fostering so much hatred and disregard for human life, and what can be done to restore the values of justice and respect for the rule of law that really made this the greatest democracy on Earth.

I do not believe this is about restoring faith in our Government. I do not believe right thinking people resort to this kind of violence because they think they pay too much in taxes or because they are angry at Government red tape. I think there really is no justification and no rationale for this kind of behavior.

But what does concern me is that the report I get from California is that there are very disspirited Federal employees, that morale is low, and that some, for example those affected by the bomb last Friday, really do not know that anybody cares about them. And what I want them to know, and I know I am joined by every Member of this Senate, is that, in fact, we do care about them. We do know that Federal employees—every member of the Army and the Navy who went to the Gulf war was a Federal employee, every park official is a Federal employee—these people take the job not for the money, certainly, but because this is the way they want to serve their Nation.

They are entitled to respect, and it is our job to see that they have that respect. So, as we pass this bill, which I hope we will do shortly, as a kind of living memorial to what happened in Oklahoma City, I think we have to do it with a view that these events are taking place in this Nation daily, just as it happened last Friday near Sacramento and Vacaville in the State of California.

I say to Gene Ainslie, 56 years old, celebrating his 32d anniversary today with his wife Rita, and all those who labor as part of the Federal Government, that we Americans do respect them, that we do honor them, and we will do everything in our power to see that this kind of behavior is not inflamed, but rather it is put to an end.

The PRESIDING OFFICER. The Senator from Utah has 5 minutes and 13 seconds.

Mr. HATCH. Is there any other time remaining?

The PRESIDING OFFICER. The Senator from Delaware has 4 minutes and 9 seconds.

Mr. HATCH. I am prepared to yield back the remainder of my time.

Mr. BIDEN. I am prepared to yield back the remainder of my time.

Mr. HATCH. Then we will both yield the remainder of our time.

Can we proceed to the next amendment?

MOTION TO RECOMMIT

Mr. BIDEN. Mr. President, my colleagues will know this is the last motion I have.

I offer a motion to recommit the conference report with instructions to delete the section relating to the study of Federal law enforcement. Senator KOHL of Wisconsin wishes to be added as a cosponsor as does, I believe, although I am not certain, Senator NUNN. I will check that. But Senator KOHL for certain.

I send a motion to recommit the conference report to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware, [Mr. BIDEN], moves to recommit the conference report on the bill S. 735 to the committee of conference with instructions.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

Motion to recommit the conference report on the bill S. 735 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on deleting the text of section 806 of the conference report.

Mr. BIDEN. Mr. President, just for the sake of discussion, if there were 10 very important provisions in this bill when we passed it out of the Senate, it has come back to us with 4—I am not being literal—with fewer than we sent over. Fewer than 50 percent of the provisions that I think are important in this bill remain in the bill.

In truth, when the Senator and I got to conference, there were probably only 10 percent of the provisions we thought important in the bill. To the credit of the Senator from Utah, he was able to get back additional provisions in the bill. For that I compliment him.

What I have been fighting about all afternoon here is trying to add back provisions that I think were mindlessly removed and removed tools that we could make available to law enforcement to protect my children and me and all of us in this Chamber and around this country.

This is the one portion of the conference report that I am seeking to delete that has made the bill worse than when it went out of here. Up to now I have been arguing that we sent a bill out of here with a lot of good things that the House stripped out and I wanted to put them back in. Not only did the House take out the bulk of the really good things that were invaluable to fight terrorism, but it added some things which I think are counterproductive. One of them is pandering to this concern of some Americans that the bad guys are the cops, the bad guys are the Government, the bad guys are the FBI or the ATF or the Justice Department.

I do not believe we should go forward with an antiterrorism bill that has a study in it only of police and not terrorists. For that reason, I propose to delete the study of the police in this bill. I think it is more of an affront than it is a substantive problem. If we do not delete this, we will be faced with a conference report that studies cops but not terrorists.

Let us remember who has literally laid down their lives in the defense of our Nation and our way of life. It is the Federal law enforcement officers, not the terrorists. This study will provide nothing but a forum for those who believe the Federal law enforcement is the enemy of the American people and not the protectors. We are unwittingly aiding and abetting that notion by deciding that, in a terrorism bill, we are going to study the cops.

The study says, section 806, Commission on the Advancement of Federal Law Enforcement.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''Commission on the Advancement of Federal Law Enforcement'' (hereinafter in this section referred to as the ''Commission'').

(b) DUTIES.—The Commission shall review, ascertain, evaluate, report, and recommend action to the Congress on the following matters:

(1) The Federal law enforcement priorities for the 21st century, including Federal law enforcement capability to investigate and deter adequately the threat of terrorism facing the United States.

(2) In general, the manner in which significant Federal criminal law enforcement operations are conceived, planned, coordinated, and executed.

(3) The standards and procedures used by Federal law enforcement to carry out significant Federal criminal law enforcement . . .

(4) The investigation and handling of specific law enforcement cases . . .

(5) The necessity for the present number of Federal law enforcement agencies and units.

Get that? We are going to study the necessity, the necessity of the present number of law enforcement agents and agencies. What is the implication of that? The implication of that is there are some bad law enforcement agencies out there. I assume this is the right's attempt to go after the Alcohol, Tobacco and Firearms. I do not know. That is who we are studying. We are going to study the cops, not the terrorists.

We have to study the location and efficacy of the office or entire entity responsible, aside from the President, for the coordination of interagency bases of operation, programs and activities of all Federal law enforcement agencies.

It goes on, by the way, for another half a dozen sections.

Think about this. Many of us were local officials before we came here. How many times did a very small segment of our community come to tell us that we had to set up commissions and we had to set up outside organizations, we had to set up police review boards, and so on, because they did not like the cops? Sometimes it was necessary. But remember how good cops responded to this.

I spoke with Director Louis Freeh today. He called me—the Director of the FBI. Of every single thing in the

bill, this is the thing that most concerns him because of what it says to the American people about what we in the Congress think about our law enforcement agencies, the very people who probably have captured the Unabomber; the very people who have gotten hold of, apparently, the man or men who blew up the World Trade Center, as well as the Federal building in Oklahoma City; the very people who, just a couple of weeks ago, outside of my State in neighboring Pennsylvania, were shot down dead, protecting people in Philadelphia—FBI agents, the very people who, increasingly, are losing their lives fighting crime and terrorism.

These are the people who we are going to investigate. There is not even a parallel study in here to investigate malicious, to investigate organizations that, in fact, raise questions, to investigate—separate issue—terrorist, per se, organizations. We are going to investigate the cops.

I can remember the years during the Reagan era. We talked about how demoralized the military felt and, to Reagan's great credit, in my view, one of the things I agreed with him on is he built up the morale of the military, after years of being beaten about the head after Vietnam.

These guys need our support, Mr. President. These women need our support. They do not need us yielding to the NRA and others insisting on a study—a study of them in a terrorism bill.

That is the study we are going to make. We are fighting terrorism, and every law Federal law enforcement officer in the Nation, guarantee you, knows that we spend an entire page of this bill—that is not true, half a page of this bill—laying out extensively what we are going to study, the people we are going to appoint to study this and, listen to this:

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 5 members appointed—

By whom?

One member appointed by the President pro tempore in the Senate; one by the minority leader of the Senate; one by the Speaker of the House; one appointed by the minority leader of the House; one member who shall chair the Commission will be appointed by the Chief Justice of the Supreme Court.

(2) DISQUALIFICATION.—A person who is an officer or employee of the United States shall not be appointed a member of the Commission.

How is that? Why cannot someone who is an officer of the U.S. Government—what a field day these wacko Freemen out in Montana are going to have when we pass this. I promise you, they are going to hold this up—some of them, may not be those guys—but other wackos and say, ''See, we're right, the U.S. Congress thinks we have to study these people, and they don't even trust them enough to allow any Federal Government employee in any capacity to be on the commission.''

I think this is humiliating, absolutely humiliating. Disqualifications: you are disqualified if you are an officer or an employee of the United States of America. That means any military person could not be on the commission; it means the Chairman of the Joint Chiefs of Staff could not be put on the commission.

This is disturbing, and if you doubt what I am saying after this is over or before we vote, pick up the phone, call Louis Freeh, call any of the police officers you know and respect, call the people we count on to protect our lives that we are studying them.

I see my friend from Utah is on his feet, and my friend from Wisconsin who wishes to speak in favor of this motion is here. I will be happy to yield to either one of them. How much time remains under my control, Mr. President?

The PRESIDING OFFICER. Three minutes 50 seconds.

Mr. BIDEN. I yield the remainder of the time to the distinguished Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. I thank my friend from Delaware.

Mr. President, I rise to speak in support of this motion to recommit, and I also want to speak generally about the terrorism measure before us. In sum, we should approve this legislation because it is the best we are likely to get and the best we can do for the victims of the Oklahoma City bombing. But I believe the record should be clear that we should have done better.

For many years, we have watched with growing concern as terrorist violence has escalated and reached closer to our homes. We can no longer ignore the fact that post-cold war violence knows no borders, and respects no distinction between soldiers and innocents.

For that reason, Senators BIDEN and SPECTER and myself introduced legislation to fight international terrorism last February. We broadened our legislation to reach domestic terrorism after Oklahoma City. And building on this, the Senate overwhelmingly supported a strong, bipartisan proposal.

That is not the proposal we are debating, however, today. We are now considering a version of that bill which is far more watered down.

Still, if we cannot enact a strong and decisive antiterrorism bill, this measure will do at least some good. For example, it will still provide law enforcement with new weapons to choke off terrorist fundraising, new powers to deport suspected terrorists, and the ability to ''tag'' plastic explosives. All of these provisions will help reduce the threat of terrorism, all are constitutional, and in their entirety they make this measure worth saving.

Unfortunately, other parts of the conference report are more problematic. The conferees deleted Senate provisions that would prevent new technology from undermining our wiretap laws. The conferees prohibited the military from using its resources to help fight chemical and biological weapons.

And the conference also added some troubling items. For example, our subcommittee held 14 days of hearings on Ruby Ridge and issued a report that was praised across the political spectrum—by Janet Reno and by militia leaders. So why do we need to have a so-called Commission reopen this matter? Similarly, why does a study of cop-killer bullets suddenly appear in this bill? Is this really necessary? Is it really an important part of our fight against terrorism?

I believe the answer is no.

The best arguments against the motions to recommit seem to be this: Don't let the perfect be the enemy of the expedient. Or we have to accept the bad in this bill to finally enact some of the good.

Well, in a certain sense that is true. But America should clearly understand that this is not what we here in the Senate agreed to. America should know that this legislation has been used to forward a political agenda that does not advance the cause of preventing terrorist acts. America should understand that while this bill does something for the memories of the Oklahoma City victims, it could have done much more.

So I will support this conference report—on balance it is better than no bill at all—and I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this Commission will explore issues surrounding the future and mission of Federal law enforcement as we enter the 21st century. Among other things, the Commission will assess our efforts to prevent and investigate future acts of domestic and international terrorism. It will consider the pressing issues facing law enforcement as crime rates rise and as criminals become more sophisticated.

I appreciate the fact that the law enforcement community is sensitive to this sort of review, but this Commission is different in focus, and we made it different in focus in the conference from the House-passed version. What was once a Waco-Ruby Ridge Commission with subpoena power is now a Commission to help Congress set Federal law enforcement priorities for the 21st century. It is a Commission which, in my opinion, will help law enforcement. I must say to my friends in the law enforcement community that I only learned of their concerns after the report was filed. If there are specific areas of the Commission's scope which are truly troublesome, I will work with them to try to address their concerns.

It should be noted that the last time a Commission looked at Federal law enforcement was over 60 years ago in 1931. In that year, the Commission on Law Observance and Enforcement, established by President Hoover, better

known as the Wickersham Commission, made public its recommendations to Congress.

In a report signed by its chair, former Attorney General Wickersham, the Commission concluded that the growth of interstate crime, an interstate organized crime network, and interstate property and economic criminal activities, mandated the need for an increased Federal role in law enforcement.

At that time, the findings and recommendations of that Commission were truly a major contribution to the fight against crime in this country.

There is more I have to say on this. At the appropriate time, I will move to table both of the Biden motions, because this Commission is thought to be extremely critical by people in the House. We have bona fide it to make it more palatable to those who object to it, and I believe we bona fide it to a degree that it can be acceptable.

On the other hand, we will continue to look at this language after this bill is passed, and I will continue to listen to law enforcement and others who are concerned and see what we can do to resolve their concerns.

I am pleased to yield 10 minutes to the distinguished Senator from Pennsylvania.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished chairman of the Judiciary Committee for yielding this time.

I support this legislation because I think it makes important improvements in our fight against terrorism and also in our fight against violent crime in the United States.

The additional $1 billion will be an enormous help to the FBI and law enforcement officials to fight terrorism. The Subcommittee on Terrorism, which I chair in the Judiciary Committee, held extensive hearings after the Oklahoma City bombing. There is absolutely no doubt about the need for more resources by the FBI. The FBI Terrorism Center will provide a clearinghouse which will be of enormous aid and assistance.

As is frequently the case, the bill is not entirely to my liking or the liking of anyone. There are a couple of provisions which concern me that I want to comment about because they may be cured at a later date.

On the provision relating to expedited deportation, I am concerned about the absence of a right of confrontation. There is a constitutional right to confront your accuser in a criminal case. A deportation proceeding is not a criminal case. It is defined as a civil case, but the consequences are extreme because a person is ousted from the country. There are very important policy considerations to not allowing the right of confrontation because many of the witnesses are confidential informants and the disclosure of their testimony would be very harmful to ongoing law enforcement efforts.

We do have an unclassified summary, included in an amendment offered by Senator SIMON and myself, and I think that is about as far as we can go. But I believe we have to watch how the act works on this expedited deportation proceeding in the absence of a confrontation right.

The restrictions on fundraising are also important. I have some concern about the limited judicial review, but on balance, this legislation against terrorism is very, very important. I am glad to see that we are finally acting on it.

Attached to this terrorism bill, Mr. President, are provisions relating to modifications of habeas corpus which limit the time for appeals on death penalty cases. This has been a long time in coming to this country. It is something that I have worked on personally for more than a decade, based upon the experience I had as the district attorney of Philadelphia. We currently have the death penalty applied and then there are delays of up to 17 years while the cases languish in the Federal courts. Most of the arguments about these provisions are made by people who are opposed to the death penalty. The lengthy appeals process in the Federal court has, in effect, defeated the deterrent effect of the death penalty.

I am personally convinced, Mr. President, that the death penalty is a deterrent. I saw many cases in my 12-year tenure in the Philadelphia district attorney's office, 4 years as an assistant DA trying murder cases and 8 years as district attorney, arguing appellate cases where the death penalty was imposed, and I am convinced that professional burglars do not carry weapons for fear of the death penalty when it is timely. But the only way a deterrent can be effective is if it is certain and reasonably swift. The time limits established in this bill are very, very important. They break new ground.

I first offered these time limits, Mr. President, in 1990. After a long, tough debate we got these time limits established by a 52-to-46 vote. They were incorporated again in 1991, passed by a narrow vote of 58 to 40. In 1993, habeas corpus was left out of the crime bill, and I offered these provisions. They were defeated on a motion to table. Senator HATCH and I later collaborated on the Specter-Hatch bill. It is not too easy to come ahead of Senator HATCH on a bill, but I did. Senate bill 623 established those time limits and they are incorporated into this final bill. They will require that anyone on death row has to file a habeas corpus proceeding within 6 months if counsel is provided, under State law, or within 1 year if counsel is not provided.

Mr. President, I think that we should have included provisions for counsel. They are not in this bill. I think that is a serious mistake. I hope it is a mistake we can correct at a later time.

When you talk about inmates languishing on death row for up to 17 years, you are talking about a problem for the system, you are talking about a problem for law enforcement, you are talking about a problem for the victims' relatives, and you are also talking about a problem for the defendants themselves on death row.

The European Court on Human Rights decided that it was cruel and barbarous treatment, cruel and inhumane treatment, to keep someone on death row for 6 to 8 years. There was an extradition case which came up where somebody was accused of murder in the first degree in Virginia, which had the death penalty, and extradition was sought from Germany. The Court denied extradition on the ground that it would be cruel, barbarous, and unusual treatment to keep someone in jail for lengthy periods of time, for 6 to 8 years. Obviously, 17 years is an extension of the time which was held to be cruel and barbarous treatment.

This bill provides a limitation on time so that the district court must decide the case within 180 days, 120 days for brief and hearing, and 60 days for decision. I have been involved in these cases in the State court. I have been involved in habeas corpus proceedings as a trial counsel in the Federal court. What the judges do is put these cases on the back shelf. There is no reason they cannot give these cases priority treatment. Now they will have to. The Congress of the United States recognizes judicial independence on what judges decide, but in terms of timetable, we have the authority to establish timetables, and we have done so under the Speedy Trial Act of years ago. Even in the jurisdictions which have a tremendous number of death penalty cases, like Texas, California, and Florida, the judge does not have more than one of these cases every year and a half. So they can put these on the expedited trial list.

This bill also provides that there will not be repetitive decisions, because the court of appeals will be the gatekeeper.

Mr. President, I inquire how much time I have remaining of my 10 minutes.

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. SPECTER. That tells me how brief I have to be.

We have had repetitive petitions filed. They have been a major irritant in the Federal court system. The idea of the Court of Appeals as a gatekeeper came to me from a law school classmate, Judge Jon Newman, chief judge of the Court of Appeals for the Second Circuit.

I am concerned, Mr. President, about a couple of provisions. I think the bill is too restrictive in limiting the ability to present a claim of innocence, requiring that it be proved by clear and convincing evidence. I joined Senator LEVIN in seeking to change that standard. But the reality is that the standard of proof is a very variable thing. I

think if it is established innocence, it may not make a whole lot of practical difference, but I think clear and convincing evidence is too high a standard from a theoretical point of view.

Similarly, I do not favor the deference which is allowed to the State court decision, requiring that it has to be unreasonable in order for the Federal court to overturn it. But I think in a Federal habeas corpus proceeding, if the court thinks it is unreasonable, it will be able to overturn the decision, notwithstanding a standard that is really not as precise as it ought to be.

I think the exhaustion requirement is misplaced here. We would be better off without it. But the net effect, Mr. President, is that this legislation is very good legislation taken as a whole. It will help out on terrorism with the additional resources. We have a tremendous problem in this country with the potential for terrorism. We have seen it in the World Trade Center bombing. We have seen it in Oklahoma City. In my capacity as the chairman of the Senate Intelligence Committee, I see a lot of problems which we cannot discuss openly, but we can move for the additional resources.

On law enforcement, the death penalty is the law of the land in 37 jurisdictions in this country. It is favored by more than 70 percent of the American people. If States do not want it, they do not have to have it. But the States that do have it ought to have it enforced. I think the overwhelming weight of authority is that it is a deterrent. These provisions are fair to the defendant. The European Court on Human Rights held it cruel and unusual punishment to impose a delay of more than 6 to 8 years.

So it is fair to the defendant. Certainly it provides closure for the victims' families, and it will reinvigorate law enforcement by taking out the habeas corpus provisions which really made the death penalty a laughingstock. So in total I think it is a good bill.

I commend all of my colleagues who have worked on it in the House. I think we will see passage of something which will be very, very significant for law enforcement in this country.

Mr. President, violent crime has been one of the worst problems faced by the people of our country for several years. Homicide rates, fueled by illegal drugs, spiraled upward in the 1980's. While the rate of violent crime has recently started to decline, there remains far too much violence in our society. And while the violent crime rates are down, the future is grim: the rate of murder and violent crime committed by children under 17 is soaring, and the number of youth in our society is increasing. Therefore, we may expect another surge in violent crime unless we take action.

There are many avenues to take to curb violent crime. We need a balanced approach that includes law enforcement, drug prevention and treatment, crime prevention programs and other means of steering juveniles away from drugs and crime.

Based on my personal experience as an assistant district attorney and as district attorney of Philadelphia, I am convinced that the death penalty is an effective deterrent to violent crime. Criminal justice experts agree that in order for any penalty to be effective as a deterrent, it must be swift and certain. When years pass between the commission of the crime and the carrying out of the sentence, the link between crime and punishment is broken.

The great writ of habeas corpus is the means by which criminal convictions and sentences in State court are reviewed in Federal court to ensure that the trial satisfied the requirements of the U.S. Constitution. It has been an indispensable safeguard of constitutional rights in this country, especially since the 1930's when the Supreme Court began reviewing State-court convictions in cases like the Scottsboro case. Unfortunately, the Federal courts have gone too far in habeas corpus cases. These cases drag on for years, and there is no end to them, as inmates, especially those on death row with nothing to lose, file endless rounds of petitions.

There is no statute of limitations for filing habeas corpus petitions. This leads inmates who have been sentenced to death to wait until they are facing their imminent execution before filing their habeas corpus petition in Federal court. An example of this abuse is the case of Stephen Duffey in Pennsylvania. Duffey murdered his victim in 1984. His conviction was finally upheld by the Pennsylvania courts in 1988. His death warrant was not signed until 1994, 10 years after the murder. It was only when the death warrant was signed by the Governor that Duffey first sought habeas corpus review in Federal court.

The requirement that all claims raised in Federal habeas corpus petitions be presented and fully adjudicated by State courts has also led to excessive delays and unsound rules as to whether Federal courts can even consider a habeas corpus petition.

The case of Michael Peoples, which I have discussed with my colleagues on numerous occasions, shows graphically how the exhaustion rule leads to excessive formalism and delay. People was convicted of a vicious robbery in 1981, and his conviction was upheld by the intermediate Pennsylvania appellate court in 1983. The Pennsylvania Supreme Court denied review by an order that did not make it clear whether it was based on the merits or on the court's procedural discretion not to hear cases that do not present a substantial legal issue. Peoples then filed a habeas corpus petition in 1986. The district court denied the petition for failure to exhaust his State remedies. The Court of Appeals for the third circuit then reversed on the ground that the exhaustion requirement had been satisfied when the Pennsylvania Supreme Court denied review. Peoples then appealed to the U.S. Supreme Court, which granted review—making the case 1 of just 147 it heard that year out of over 4,550 petitions for Supreme Court review—and reversed the third circuit. On remand, the third circuit issued a complicated ruling finding that Peoples' habeas petition contained both exhausted and unexhausted claims and sent the case back to the district court. Years were spent considering just this initial procedural hurdle of exhaustion. I believe we would have been better served had the courts simply reviewed the substance of Peoples' claims.

Another problem causing the excessive delay in carrying out death sentences has been the ability of inmates to file repeated habeas corpus petitions. Once again, I turn to an example I have often discussed with my colleagues, the case of Robert Alton Harris. After being convicted of a double murder in a California court in 1980, Harris filed over the next 14 years 10 petitions for State post-conviction relief and five Federal petitions for habeas corpus. The Supreme Court of the United States considered 11 different applications relating to the Harris case. Many of the petitions Harris filed contained similar or overlapping claims, although none raised doubts about his guilt. Finally, after 14 years, Harris was executed. I regret to say that the Harris case is far from unique in its multiple habeas corpus filings.

Abuse of the writ of habeas corpus has led to the death penalty being not an effective deterrent, but a mockery. Inmates on death row spend an average of over 9 years awaiting execution. And may wait much longer, with some cases dragging on 18 or more years. During these periods of lengthy delay in carrying out death sentences, the families of the victims are left in a sense of suspension, unable to put the tragedy behind them.

Putting an end to these excessive delays will once again restore vitality to the death penalty as an effective deterrent to violent crime, which I know from personal experience it is. I have told my colleagues on numerous occasions over the past several years about the case of Cater, Rivers, and Williams, three young hoodlums who I prosecuted as an assistant district attorney. These three were planning on robbing a Philadelphia pharmacy. When Cater and Rivers saw that Williams was carrying a revolver, they told him they would not participate in the robbery if he took the weapon because they feared the death penalty. Williams put the gun in a drawer, but as the three were leaving, Williams sneaked it back into his pocket. Williams used the gun in the commission of the robbery to kill Jacob Viner, the pharmacist.

All three men convicted and sentenced to death because, under the law, Cater and Rivers were equally responsible for Viner's murder as Williams.

Ultimately, Williams was executed, but Cater and Rivers had their sentences commuted to life imprisonment because they were unaware that Williams had carried the gun. As a prosecutor, this case was just one of many I encountered in which burglars and robbers refused to carry firearms because they feared the death penalty.

In order to make the death penalty once again an effective deterrent, I have actively been attempting to streamline habeas corpus procedures since 1990. When the Senate considered anticrime legislation that year, I offered with Senator THURMOND an amendment to reform habeas corpus procedures to speed up and streamline the process. My amendment was adopted by the Senate, 52 to 46, and included in the final bill. Unfortunately, at the insistence of the House conferees, the provision was dropped from the conference report adopted the last day of the 101st Congress.

In the 102d Congress, I introduced legislation, S. 19, that was substantively identical to the 1990 amendment the Senate had passed. When the Senate considered anticrime legislation in 1991, however, Senators HATCH and THURMOND offered a slightly different habeas corpus reform amendment that was based on my legislation but included language limiting the scope of Federal review of State convictions. After careful consideration, I spoke at length in favor of that amendment and voted for it. This amendment also passed the Senate, 58 to 40, and included in the final bill that passed the Senate. When the bill went to conference, however, the House insisted on its habeas corpus provisions which, rather than reducing delays and streamlining the process, would have allowed for greater delay and more manipulation of the process. The conference report that contained that provision was filibustered in the Senate because of its habeas corpus provisions and never came to a vote.

Once again in the 103d Congress, I introduced legislation similar to my previous efforts. When the 1993 anticrime bill was debated in the Senate, the managers decided that habeas corpus reform was too tough an issue to resolve and remove the bill's habeas provisions. I strenuously objected and brought before the Senate a bill I introduced to streamline the process. While many of my colleagues wanted to see us take action on the bill, it was tabled in order to keep the habeas issue from interfering with efforts, which I also supported, to secure Federal assistance for police hiring and prison construction.

When Republicans took control of the Senate and House this Congress, I had high hopes that we would finally be able to resolve the issues that had previously derailed efforts to reform habeas corpus. Together with Senator HATCH, I introduced legislation, S. 623, to impose a statute of limitations on the filing of habeas corpus petitions, restrict the ability to file successive petitions, impose time limits on Federal court consideration of habeas petitions in capital cases, and encourage States to provide adequate counsel in capital habeas cases.

In the wake of the Oklahoma City bombing, as the Senate developed antiterrorism legislation, I worked to ensure the inclusion in the bill of my habeas corpus reform legislation. As introduced and passed by the Senate, S. 735 includes in full the provisions of S. 623. When the House ultimately considered its antiterrorism bill, it included my habeas corpus reform language as well.

As I mentioned, there are several aspects of the habeas corpus reform provisions that I would prefer were different. Most glaringly is the restrictive standard of review. The bill continue to require deference to State courts' findings of fact. Federal courts will owe no deference to State courts' determinations of Federal law, which is appropriate in our Federal system. However, under the bill deference will be owed to State courts' decisions on the application of Federal law to the facts. Unless it is unreasonable, a State court's decision applying the law to the facts will be upheld. I am not entirely comfortable with this restriction, but upon reflection I believe that the standard in the bill will allow Federal courts sufficient discretion to ensure that convictions in State court have been obtained in conformity with the Constitution.

I also believe that the formulation in the bill is too restrictive in limiting successive petitions when the inmate raises a claim as to innocence. For this reason, I supported Senator LEVIN's amendment when the bill was initially considered by the Senate. That amendment, however, was tabled.

Finally, I am disappointed by the absence of two provisions from the habeas corpus reform sections. Since 1990, I have been convinced that we can improve the process by eliminating the exhaustion requirement. I have tried repeatedly to do so. Both prosecutors and representatives of the defense bar have strenuously objected to these efforts, albeit for different reasons. Despite my certainty that the bill would be improved had we eliminated the exhaustion requirement, I am willing to move forward without its elimination in the interest of getting habeas corpus reform. I am also concerned that the bill does not establish standards for trial counsel in capital cases. In my previous efforts I had sought to ensure that the States provided adequate counsel in capital cases at both trial and in the post-conviction process. Improving trial counsel in capital cases is a critical step to making the trial rather than the habeas proceedings the central event in death-penalty cases. This bill, while seeking to ensure adequate counsel for habeas proceedings, does nothing to strengthen the minimal constitutional standard for ensuring adequate counsel at trial.

Despite the provisions that concern me and the failure of the habeas reform to include two elements important to a fair and comprehensive scheme of habeas reform, I support the habeas corpus reform provisions of this bill. In politics, one learns that the best is the enemy of the good. Since the restoration of the death penalty in 1976, we have seen its effectiveness as a deterrent sapped by delays attributable to defects in the habeas corpus system. The reforms included in this bill, while not perfect, will go a long way to restoring vitality to the death penalty as an effective deterrent to violent crime. I was therefore willing to sponsor these provisions in conjunction with Senator HATCH and am please to see them enacted. They are the culmination of many years of effort, and I am deeply satisfied by their adoption.

We are, of course, dealing with an antiterrorism bill, and there are several provisions of the bill in addition to habeas corpus reform that I want to address briefly. As chairman of the Judiciary Subcommittee on Terrorism, I have long been interested in combating terrorism and have been very active in the area. In 1986, I introduced legislation that made it a Federal crime to commit a terrorist attack against a U.S. citizen anywhere in the world. I have also been active in seeking to limit diplomatic immunity for terrorist acts and for punishing acts of terrorism before an international criminal court. Earlier this Congress, I joined Senator BIDEN and Senator KOHL in introducing S. 390, the fist omnibus counterterrorism bill introduced this Congress, 2 months before the tragic Oklahoma City bombing that gave the issue such currency,

I am pleased that the conference report retained my amendment to the Senate bill to authorize assistance to U.S. allies to support the purchase of counterterrorism technology if U.S. interests are at stake. My original amendment authorized $3 million for this assistance, but in the wake of the recent terrorist bombings in Israel that have put the peace process at risk, the amount authorized in the conference report has been increased to $20 million.

I also want to express my support for the provision to require the Attorney General to study the availability of bombmaking manuals, evaluate whether current laws are adequate to address the problem, and determine whether anything else can be done constitutionally. My Judiciary Subcommittee on Terrorism and Technology held a hearing on this subject in May 1995. We were deeply troubled by what we heard. I am skeptical that the Government can do anything to restrict such information without violating the first amendment. I am pleased that the Attorney General, whose representative testified at our hearing, will study this matter and make appropriate recommendations.

The conference report adds a provision to make it a crime to misuse

human pathogens and other biological agents. The terrorist threat from such agents is very real. My Terrorism Subcommittee is conducting a study on this issue and the threat from chemical agents as well. I know that the Governmental Affairs Committee has also held hearings on this subject. Recently, the full Judiciary Committee held a hearing on the threat posed by the wrongful use of human pathogens. After that hearing, I joined several other members of the committee in writing the President to express our concern over the gaps in Federal regulation over the distribution of human pathogens. I am pleased to see the conference report include this provision.

The conference report deleted the Senate-passed provision to authorize the broader use of multipoint wiretaps. I opposed the inclusion of this provision in the Senate bill and am pleased to see that the conferees deleted it. Current law strikes the appropriate balance, and I feared the Senate-passed provision went too far in threatening privacy interests.

I want to note that, while the conference report alters the expedited deportation provisions of the Senate bill, adopted as part of an amendment I offered with Senator SIMON and Senator KENNEDY, it preserves the requirement that if classified information is used to deport an alien suspected of terrorist activity, an unclassified summary adequate to permit the alien to mount a defense must be provided to the alien. This requirement is the absolute minimum that due process will permit. Anything less could not have survived constitutional scrutiny, and I am pleased that this aspect of my amendment was retained.

I am also troubled by the restrictions on domestic fundraising for foreign terrorist organizations. The Senate bill had allowed entities designated as terrorist to seek judicial review. That review would have accorded no deference to the administration's designation and allowed full and searching judicial review. The conference report, while retaining judicial review, establishes a deferential standard for that review. I am far less satisfied with this level of scrutiny. I am also concerned about the first amendment implications of this provision, restricting the ability of U.S. citizens to support favored causes. I acknowledge that the United States is a fertile ground of financial support for foreign terrorist organizations, but am nonetheless concerned about these infringements on U.S. citizens.

Finally, I want to express my strong disappointment over the limited scope of the provision allowing U.S. citizens injured by foreign terrorist attacks to sue foreign nations who supported the attack in which they were injured. In 1993, I introduced the first bill in the Senate to allow U.S. victims of foreign terrorism to sue foreign countries they suspected of supporting the terrorists who injured them. My bill was favorably reported by the Judiciary Committee.

When the Senate considered this bill, it included a provision similar to but narrower than my bill as reported by the Judiciary Committee in 1994, allowing suits against foreign nations for supporting terrorism only if the State Department had previously listed the defendant nation as a sponsor of terrorism. The House bill contained a broader provision allowing suit in the U.S. against any foreign country that did not provide due process in its own courts to remedy the injury to an American citizen.

As the conference on this bill began, I wrote to each of the Senate conferees urging them to accept the House-passed provision. As the conference proceeded, I had thought that an acceptable compromise would be reached. I deeply regret that the conference report rejected any compromise and adhered to the Senate's provision, which allows the State Department to manipulate those foreign nations that are subject to suit in U.S. courts for injuring U.S. citizens. Giving the State Department this role is contrary to the rationale of the Foreign Sovereign Immunities Act and will allow impermissible foreign policy consideration to affect the ability of Americans to seek redress for their injuries caused by foreign governments. I will continue to work on this issue to remove this unfair limitation.

This conference report is not all that could be hoped for. It does, however, represent a significant advance in our Nation's ability to fight terrorism without unduly compromising the rights and liberties of our citizens. As a result, I support the conference report and urge my colleagues to do so as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah has 2 additional minutes.

Mr. HATCH. I yield back my 2 minutes. I understand the time of the minority is also expired.

The PRESIDING OFFICER. That is correct.

Mr. HATCH. On behalf of Senator DOLE and myself, I move to table both of the Biden amendments, with the understanding that these votes are stacked.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Could I also ask unanimous consent that the first vote be 15 minutes in length, but the last two votes be 10 minutes each?

Mr. FORD. Reserving the right to object, Mr. President, I am not sure. Could you give me just a second?

Mr. HATCH. I will withhold that unanimous-consent request.

Mr. DOLE. Were the yeas and nays ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. The first rollcall will be 15 minutes, and the next will be 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. The third will be 10 minutes. The first vote is 15 minutes, the next two votes will be 10 minutes each.

Mr. DOLE. Mr. President, just short of a year ago, this country was rocked by an attack on the Alfred Murrah Federal Building in Oklahoma City, OK. In the wake of that horrible incident, in only a matter of weeks, the Senate responded by passing the Dole-Hatch comprehensive antiterrorism legislation by a vote of 91 to 8 on June 7, 1995. Most of its provisions were drawn from earlier Republican crime packages. Over the past month, we have worked in a bipartisan manner to craft what would surely be the toughest antiterrorism bill ever to become law.

This week, to honor the memory of those who suffered in Oklahoma, the Congress will send to President Clinton this landmark bipartisan antiterrorism bill. It has the support of the Republican Governor of Oklahoma, Frank Keating, and Oklahoma's Democratic attorney general, Drew Edmondson.

Under the leadership of Senator HATCH, we have a measure which would give us the strong, upper hand in the battle to prevent and punish domestic and international terrorism.

On March 27, 1996, I wrote to each of the conferees urging in particular that the three important provisions in the Senate bill be retained. The first facilitates a speedy removal of suspected foreign terrorists from U.S. soil. The second keeps foreign terrorists from raising money for their activities in the United States. The third makes membership in a terrorist organization the basis for exclusion from the United States.

Each of these is a commonsense protection for all Americans. Each of these reforms is long overdue. I am pleased that Senator HATCH and the conferees insisted on keeping these important reforms in the bill.

Most importantly, the bill contains comprehensive, effective habeas corpus reform, which has just been discussed by the distinguished Senator from Pennsylvania, Senator SPECTER, who, as he outlined, has been active in this area for many, many years.

I did visit the San Quentin State Prison in California about 6 or 8 weeks ago. There I met a father whose son had been murdered, a pretty clear-cut case, and it took 15 years—15 years—appeal after appeal after appeal before justice was meted out and the person who committed the murder was executed. There have been more people die of natural causes in that prison than of the death penalty, because of the frivolous appeals, appeal after appeal, costing the State millions and millions of dollars. Obviously, we need to protect

the rights of the defendant, particularly in capital cases, but in my view, it is a sad commentary that on death row in San Quentin, where there are about 400-some inmates on death row, more will probably die of natural causes than because of the death penalty.

Maybe that will be changed because of this big, big step forward. I want to commend Senator HATCH, Senator SPECTER, and others who have worked on this a long time. It has been more than a decade of efforts. We are about to curb these endless, frivolous appeals of death sentences by those convicted of murder. Habeas corpus reform is the only substantive provision in this bill that will directly affect the Oklahoma City bombing case. It is the heart and soul of the bill.

I sent a letter Monday to President Clinton. In that letter, I reiterated that we simply cannot continue allowing convicted murderers to appeal their sentences year after year. President Clinton has already vetoed a similar reform of the death penalty appeals process. The White House continued right up to the end, to argue for changes in habeas corpus that would essentially gut this reform. I called on President Clinton to support us in this important effort and sign this bill when it is sent to his desk. America will not tolerate a second veto of habeas corpus reform.

I am very pleased, moreover, that the conference report provides victims of terrorism the ability to sue foreign governments responsible for terrorist acts in U.S. courts for the first time. On December 21, 1988, 270 people were killed in the terrorist bombing of Pan Am flight 103. This brutal act of terrorism killed more Americans than died in Desert Storm.

The Libyan Government was clearly responsible for this brutal crime. Yet, Libya refuses to extradite the Libyan intelligence officials responsible. I do not know anyone who believes there is a realistic chance that Qaddaffi will cooperate to bring killers he ordered to justice in a legitimate court.

For too long, the survivors of the victims have had no recourse to seek compensation from Libya. That's why the Dole-Hatch bill last year contained authority for victims of international terrorism to sue terrorist states in U.S. courts. For 10 months the Clinton administration fought this provision. For 3 years the Clinton administration has had meetings with family members and had tough rhetoric—but there has been no real action to redress the tragedy of Pan AM flight 103.

This week the Congress will enact this important reform. This is not rhetoric, this is action. This is historic and will, at long last, allow American victims of terrorism to use U.S. courts to try to seek compensation for the vicious acts of terrorist states.

I am proud to have worked closely with the families of the Pan AM 103 victims for many years, especially in the 1990 Aviation Security Act. Nothing we do can possibly replace their loss, but we can give them a avenue for partial justice.

Mr. President, yesterday I received a letter from Victoria Cummock, president of the families of Pan-Am 103/Lockerbie. On behalf of those families, she urged support of this bill. She focuses on two provisions: habeas corpus reform; and opening up our courts to allow victims their day in court against governments that sponsor terrorism. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the materials was ordered to be printed in the Record, as follows:

FAMILIES OF PAN-AM 103 LOCKERBIE,
April 15, 1996.

Hon. BOB DOLE,
Senate Majority Leader,
Washington, DC.

DEAR SENATOR DOLE: On behalf of the victims' families of Pan Am 103, I want to express our gratitude for your leadership in the Anti-Terrorism bill (S–735), currently pending in the Congressional Conference Committee. Your support of two key provisions will enable American victims of terrorism obtain justice in U.S. courts.

More Americans have died at the hands of terrorists than in Desert Storm, or in any other American war over the past 20 years. The bombing of Pan Am 103 was the single worst act of terrorism against civilians in this country's history, killing 270 people. For more than seven year, we—the families—have waited for our country's help and support. During that time terrorists blew up the World Trade Center '93, injuring 1,000 and killing eight, and last year bombed the federal building in Oklahoma City, killing 168.

On March 7, dozens of Americans victimized by terrorism gathered in Washington, D.C. They included parents, widows, and children from the families of Pan Am 103; 21 next of kin from the Oklahoma City bombing; a daughter of Leon Klinghoffer killed in the hijacking of the Achille Lauro; Joseph Ciccipio and David Jacobson held hostage in Lebanon; Scott Nelson tortured in Saudi Arabia, families of the victims of the World Trade Center bombing, and Hans Ephraimson-Abt, the 74-year old father of one of the victims of KAL 007 shot down over the Soviet Union.

At great personal and emotional expense, they gathered to support provisions of the anti-terrorism bill that would enable us to achieve justice: limit immunity granted foreign states that sponsor terrorism, and reform Habeas corpus.

Our motives are not political. Our lives and families have been unraveled by terrorism, and justice is our only consolation. Without justice and accountability there is no deterrence. We want to live in peace knowing that other Americans will be spared.

Countries that hide behind their sovereign immunity to avoid U.S. courts will continue to encourage and sponsor terrorist acts. For example, Libya, which is accused of ordering the bombing of Pan Am 103, is also accused of the 1989 bombing of a French UTA plane of Chad. It killed 171.

Allowing convicted murderers to delay their execution for 17–24 years with their seemingly endless appeals is also plainly wrong. It makes a mockery of our judicial system and gives criminals more rights than their victims.

Dead Americans have no voice, their families must speak for them. Four weeks ago the President made a request to Congress to provide aid to the families of four Cuban Americans shot down by Cuba. Has the President forgotten the hundreds of other Americans murdered by terrorists? The promise that he made to us before his election?

This nation cannot continue to allow countries to kidnap, torture, and murder Americans and escape accountability. The United States allow corporations to seek restitution in U.S. civil court. U.S. law permits restitution for sabotaging a plane full of chickens—but not people. This is an outrage. The message sent to countries sponsoring terrorism is that it is safe to target and kill Americans.

I want to be able to tell my three small children that America stands with us and that their father's constitutional right to justice (and that of other victims) will no longer take a back seat to the rights of terrorists. By maintaining the FSAI and Habeas Corpus provisions in the final language of the anti-terrorism bill, Congress will give us the opportunity to help ourselves. The changes we advocate are right for all Americans; this reform is overdue.

Thank you for your commitment in helping American victims of terrorism. Our hopes and prayers will be with all the Congressional Committee members during their final deliberations.

Sincerely,

M. VICTORIA CUMMOCK,
Widow of John B. Cummock;
President.

Mr. DOLE. Mr. President, in a few moments we will pass this bill. The Congress will put the national interest ahead of partisan interests. Those who have delayed passage of this historic bill argue that this is a weak bill. This is wrong. It is unfair to those who have suffered or may suffer in the future from the evil handiwork of terrorists and other criminals.

My colleagues have opposed these efforts. We will pass this bill today. As Diane Leonard, whose husband Don was killed in the Oklahoma City bombing, said yesterday: ''It is the right thing to do.'' Then I hope President Clinton will do the right thing and sign the bill.

I yield the floor.

Mr. HATCH. Mr. President, what is the status of the bill?

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the motion to table the motion to recommit offered by the Senator from Delaware.

Mr. HATCH. Mr. President, I was under the mistaken belief that we would have some extra time, but I would like to give some time before final passage, equally divided. I would like to be able to give 3 minutes to the two distinguished Senators from Oklahoma. That would mean 6 minutes to the minority.

I ask unanimous consent that we have 12 minutes, equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, as I understand, prior to the final vote?

Mr. HATCH. Prior to the final vote.

Mr. FORD. Six minutes.

Mr. HATCH. Divided between Senator BIDEN and myself, and I make sure the——

Mr. FORD. Six minutes on each side?

Mr. HATCH. Right.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to table the motion to recommit offered by the Senator from Delaware [Mr. BIDEN] relative to revising existing authority for wiretaps.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 69 Leg.]

YEAS—56

Abraham	Feingold	McConnell
Ashcroft	Frist	Moseley-Braun
Baucus	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Pressler
Brown	Grassley	Reid
Burns	Gregg	Roth
Campbell	Hatch	Santorum
Chafee	Hatfield	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Smith
Cohen	Inhofe	Snowe
Coverdell	Jeffords	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	McCain	

NAYS—43

Akaka	Ford	Lieberman
Biden	Glenn	Mikulski
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Robb
Byrd	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Simon
Dodd	Kohl	Wellstone
Dorgan	Lautenberg	Wyden
Exon	Leahy	
Feinstein	Levin	

NOT VOTING—1

Mack

The motion to lay on the table the motion to recommit was agreed to.

The PRESIDING OFFICER (Mr. SANTORUM). The question occurs on agreeing to the motion to table the motion to recommit with instructions relative to deleting section 806 of the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 70 Leg.]

YEAS—53

Abraham	Coverdell	Grassley
Ashcroft	Craig	Gregg
Bennett	D'Amato	Hatch
Bond	DeWine	Hatfield
Brown	Dole	Heflin
Burns	Domenici	Helms
Campbell	Faircloth	Hutchison
Chafee	Frist	Inhofe
Coats	Gorton	Jeffords
Cochran	Gramm	Kassebaum
Cohen	Grams	Kempthorne
Kyl	Pressler	Specter
Lott	Roth	Stevens
Lugar	Santorum	Thomas
McCain	Shelby	Thompson
McConnell	Simpson	Thurmond
Murkowski	Smith	Warner
Nickles	Snowe	

NAYS—46

Akaka	Feinstein	Mikulski
Baucus	Ford	Moseley-Braun
Biden	Glenn	Moynihan
Bingaman	Graham	Murray
Boxer	Harkin	Nunn
Bradley	Hollings	Pell
Breaux	Inouye	Pryor
Bryan	Johnston	Reid
Bumpers	Kennedy	Robb
Byrd	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Simon
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Exon	Levin	
Feingold	Lieberman	

NOT VOTING—1

Mack

So the motion to lay on the table the motion to recommit was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I understand before the final vote there are 6 minutes allotted to each side.

The PRESIDING OFFICER. The Senator will suspend. Senators to the left of the Chair will please take your conversations to the cloakroom. The Senate will please come to order.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I appreciate the indulgence of my colleagues today in voting on these motions to recommit and the strong support of 40 to 48 Senators we have gotten on each of these votes. I appreciate that.

In the 6 minutes that I have to close, let me just suggest two things. There is a good deal of change that has been made in the habeas corpus provisions of the law, which, in my view—a broken record—will do nothing to prevent terrorism. The habeas provision in this bill deals primarily with State crimes, and the terrorism crimes we are concerned about—Oklahoma City, the World Trade Center bombing, et cetera—are Federal crimes. It will not affect it at all.

But there is a provision in the bill that I would like to say something about. There's a section that says:

> An application for writ of habeas corpus on behalf of a person in custody, pursuant to the judgment of a State court, shall be granted with respect to any claim that was adjudicated on the merits in State court proceedings, unless the adjudication of the claim, one, resulted in a decision that was contrary to or involved in unreasonable application of a clearly established Federal law as determined by the Supreme Court, or resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented.

I would like to make this brief observation.

As things now stand, Federal courts take State court decisions very seriously. They are not writing on a blank page and ignoring State court decisions right and left. In fact, court watchers who pay close attention to the cases tell me that Federal courts grant relief only when it is pretty clear that someone's constitutional rights have been violated. So it seems to me that even under this provision of the law we are now changing, which I think is inadvisable to change, but even under this provision, if Federal courts think that State courts are right on the Constitution, they will uphold it. And if they are wrong, they will not.

So if a State court makes an unconstitutional determination, the Federal courts will, and should, continue to say so. Therefore, I think this is much less onerous—unnecessary but much less onerous—than, in fact, it may appear on its face.

If a Federal court concludes the State court violated the Federal Constitution, that, to me, is by definition—by definition—an unreasonable application of the Federal law, and, therefore, Federal habeas corpus would be able to be granted.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am truly gratified at the action that I believe the Senate is about to take. Passage of this legislation is urgently needed. This bill, passing at this time, will be a memorial to the victims of terrorism. I was so moved the other day, when survivors of terrorism came here to Washington to plead again for enactment of this legislation.

Since the Senate first acted last June, we have been working to reach this point. The result of that effort is a conference report that, in my view, deserves the support of every Member here. This legislation represents a landmark effort to address an issue of grave national importance—the prevention and punishment of acts of terrorism. This bill includes long-needed reforms to Federal habeas corpus procedures and provides vital provisions for victims of terrorism and other Federal crimes. It also adds important tools to the Government's fight against terrorism, and does so in a temperate manner that is protective of civil liberties.

I have insisted from the beginning that this bill address the needs of the victims of terrorist acts, so I am particularly pleased about the provisions we have included for them. Our commitment to the victims of terrorism is evident from the first two titles of the conference report. These provisions are the heart and soul of this bill, and are the only provisions which can provide solace to the victims of past acts of terrorism, such as Oklahoma City and Lockerbie:

Habeas corpus reform: This legislation includes tough, fair, and effective reform of Federal habeas corpus procedures. I have been fighting, along with

crime victims across our Nation, for the enactment of this legislation for nearly 20 years. Finally, heinous criminals will no longer be able to thwart justice and avoid just punishment by filing frivolous appeals for years on end. Finally, crime and terrorism victims will know that our justice system means what it says.

Mandatory victim restitution: The mandatory victim restitution section of this bill is the Hatch-Biden measure, and will ensure for the first time that Federal courts must order violent criminals and terrorists to pay restitution to their victims. We all know that a price can never be placed on the terrible costs these crimes inflict. We also know that in far too many cases, repayment will fall far short of the cost we can calculate. However, with this bill, victims will finally have the solace of knowing that the justice system recognizes their loss, and that the perpetrators of evil are held accountable.

Terrorism by foreign countries: This bill takes the important step of ensuring that Americans who are harmed by foreign governments committing or directing terrorists acts can sue those governments in American courts. Lawless nations will no longer be able to hide their terrorist acts behind the rules of international law that they otherwise flaunt.

Oklahoma City trial: Finally, by providing for closed circuit viewing of the Oklahoma City trial by the bombing's victims and survivors, this bill also will ensure that these courageous people can observe justice being done, while still ensuring a fair and just trial for the accused.

The terrorism bill we are about to finalize also is a tough, effective measure. With its enactment, we will be better able to prevent and deter future terrorist acts. Moreover, we will be better equipped to respond to and punish these heinous acts should they occur.

First, for the first time since the tragic bombing of Pan Am flight 103, it will be required that all plastic explosives manufactured, sold, imported into, or exported from the United States include chemicals to make them detectable by airport security. This provision will help protect airline passengers from terrorist attacks and fulfill our obligations under international agreements.

Second, this legislation include important new measures to ensure that access to dangerous human pathogens—like the agent that causes bubonic plague—is properly limited. This will help ensure that the American people are not victimized by terrorists engaging in such tactics, such as the Japanese cult Aum Shinri Kyo that released cyanide gas in a crowded Tokyo subway.

Third, the bill we will send to the President provides law enforcement with the tools necessary to combat the threat of nuclear contamination and proliferation that may result from illegal possession of nuclear materials.

Fourth, this antiterrorism bill will prohibit, in a constitutional manner, fundraising in this country by specific, designated foreign terrorist groups. Once designated, these groups will no longer be permitted to use American-raised funds to spread terror here and abroad.

Fifth, this bill provides the Federal Government with the tools it needs to exclude representatives and members of foreign terrorist groups from the United States, and provides the Government with the ability, within the bounds of due process, to deport alien terrorists without compromising national security.

This bill also: Increases the penalties for crimes committed with explosives, as well as conspiracies to commit such crimes; curtails the use of domestic and foreign use of weapons of mass destruction; addresses the increasingly global nature of terrorism, increasing penalties for terrorist acts that transcend national boundaries; imposes strict penalties for retaliatory assaults or murders of Federal officers or employees; provides emergency response training to State and local law enforcement; and harmonizes security measures to provide Americans flying to and from the United States on foreign airlines with the same level of protection they receive for domestic flights.

In short, this bill reflects the unity of purpose and clarity of resolve with which we must meet the terrorist threat.

I am proud of the bill we have crafted. It is time for us to finish the job, and pass this conference report. In doing so, it is my hope that we recall the Americans who died at the hands of terrorists, not only last month, but over the last 15 years or more. In Beirut, in Lockerbie, in New York, and in Oklahoma City, victims of terrorism have had their lives stolen by evil persons pursuing selfish and twisted agendas. We can honor these victims by completing the task at hand.

Mr. HATCH. Mr. President, I yield 3 minutes to the distinguished junior Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 3 minutes.

Mr. INHOFE. Mr. President, I think anything that is said further tonight on this bill will be redundant, but I think some things are worthy of redundancy. I think it is virtually impossible for anyone in this Chamber who was not in Oklahoma City when the tragedy happened—the bombing of the Murrah Federal Office Building—to really appreciate the significance of the trauma, the disaster, the emotions at the time.

I think it was well said in a magazine called Oklahoma Today, talking about the first wave of the super-hot gas moved at 7,000 miles an hour, fast enough for someone 10 feet away to be hit with a force equal to 37 tons, and in about half a second the gas dissipated only to be replaced by an equally violent vacuum. The resulting pressure waved outward, lifting the building up and causing beams, floor slabs, and connections to weaken and collapse.

When the pressure wave passed, gravity took over. Nine stories of the north side of the building pancaked, creating a crater 30 feet deep. People who had been on the ninth floor ended up in the basement.

I think one of the most memorable experiences I had was the very first night. The firefighters had arrived. They were all volunteers. They were taking turns 1 hour at a time crawling on their bellies through there to pull out parts of bodies. I actually saw on the first floor human hair and one hand that was stuck to a wall. As they pulled the bodies out—some alive, some dead—they did not know at that time whether or not it would come crashing down and kill them. When one group came out after an hour, there was blood all over the individuals. Then you could hear the cadence, almost like you heard in World War II, of the firefighters marching down the streets to take their turn, and this is what we experienced there.

The majority leader a few minutes ago said the habeas provision is the heart and the soul of this bill. It may be that some of you do not agree with that, but I can assure you the families of the 168 victims who died in the Murrah Federal Office Building, they believe that, because they came up here 2 months after the explosion and sat across the table from many of the Senators in here and said, ''The one thing we want in legislation is habeas reform. We do not want the same thing to happen as happened when Roger Dale Stafford in Oklahoma murdered nine Oklahomans and sat on death row for 20 years.''

So I guess all I can say is, on behalf of the families of the 168 victims, those who lost their lives in the Murrah Federal Office Building, I appeal to you to pass this bill tonight.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, so that the majority gets to go last, I have 2 minutes remaining.

What the Senator from Oklahoma just read was moving and significant. I am going to vote for this bill, but I am dumbfounded why, after reading what he just read and us knowing that, that we all voted in this Chamber to allow someone to teach somebody how to build another fertilizer bomb, even if the person teaching knew or had reason to believe it would be used for a purpose like that.

Hear what I just said? ''Intended.'' If a person teaches someone how to build a fertilizer bomb intending that that be able to be done, a crime to be able to be committed with it, we just voted not to put that prohibition into the law.

And now that you all are here and did not have a chance to listen to this before, I hope you know, after we pass this bill, you will join me tomorrow, or

the next day, to pass a law that says you cannot do that, because you inadvertently voted, when I tried to put it back in the law, to let someone now, legally, over the Internet or any other way, teach someone how to build a fertilizer bomb, give them the details and intend that it be used that way, and it is not prohibited.

So I hope tomorrow when I am here, or the next day, listening to what the Senator from Oklahoma accurately stated and believes deeply that we should never let this happen again; we will correct the mistake that we made here today.

Mr. HATCH. Mr. President, I yield the last 3 minutes to the distinguished senior Senator from Oklahoma.

Mr. NICKLES. Mr. President, first I wish to thank the majority leader for setting aside the immigration bill to take up this bill. I informed the majority leader and the Speaker some months ago of my earnest desire to pass this before this Friday.

This Friday is the 1-year anniversary of the worst civil disaster that we have had in U.S. history: 168 innocent men, women, and children were murdered in the Murrah Building bombing.

The majority leader responded to that request, and I appreciate it.

I also want to compliment Senator HATCH and Senator BIDEN and their staffs, and also Chairman HYDE, for their willingness over the last 2 weeks when we were in recess to work out the differences, because the bills between the House and the Senate had a lot to offer, but there are significant differences in the bills.

But there were significant differences. They worked out those differences. They came up with compromises. That was not easy during the break. That is not often done. But they did it so we can meet this deadline. I very much appreciate their cooperation.

Mr. President, this is vitally important legislation. As my colleague from my State, Senator Inhofe, mentioned, this is very important legislation to the families of the victims. There are hundreds of people involved. Yes, there are 168 individuals who lost their lives, but they have hundreds of family members, and actually I think it is in the thousands, the relatives that are directly impacted, that lost a cousin, lost a dad, lost a son, lost a daughter.

We met with those individuals. They want this bill passed. This bill may not be perfect. I know Chairman HATCH said that some of the other provisions that were alluded to today, that he is happy to introduce those and work on those in separate legislation. I compliment him for that. But if we recommitted this bill, we would not have this bill. It would not pass.

So I want to thank my colleagues on this side that voted against the motions to recommit. This is a conference report. If we are going to get it passed, we are not going to be able to recommit it. So I will be happy to work to make future improvements. But this is a good bill. It does have habeas corpus reform. It ends the abusive appeals. That is certainly good for taxpayers and victims.

It does allow closed-circuit TV for families in the Oklahoma City bombing. Right now the trial, regrettably, is going to be in Denver. That is over 500 miles from Oklahoma City. They want to be able to view the trial and not have to move their families to Denver. We requested assistance from Justice, but they did not make it happen. We make it happen in this legislation. That is good news for their families. Several of us will be with several thousand people. That will be good news for Oklahomans.

Finally, I thank my colleagues for their bipartisan support. We put mandatory victim restitution in this legislation, something that the Senate has supported countless times. That is very significant and important and one of the crime reform packages we have had. We passed it in the Senate. Unfortunately, it has not come out of conference with the House. It is in this bill. Again, I want to thank my colleagues, Senator HATCH and Senator BIDEN, because they supported that provision.

Finally, Mr. President, I want to urge my colleagues to vote for this bill. I will be very disappointed if this bill only has 60 or 65 votes. I hope it has 100 votes. This bill may not be perfect, but it is good legislation. Also, I would like to urge the President of the United States to sign it.

Mr. President, I ask unanimous consent that a letter from the Governor of the State of Oklahoma to the President of the United States urging that the President sign this bill be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF OKLAHOMA,
OFFICE OF THE GOVERNOR,
Oklahoma City, OK, April 16, 1996.

Hon. BILL CLINTON,
United States of America, The White House, Pennsylvania Avenue, Washington, DC.

DEAR PRESIDENT CLINTON: Congress will soon pass legislation which will effectively combat terrorism. Having dealt with the tragedy and aftermath of the Oklahoma City bombing, I believe it is imperative that you sign this legislation into law.

In addition to the tough law enforcement provisions aimed at terrorists and their organizations, it includes provisions of particular interest to those of us in Oklahoma.

First and foremost is effective death penalty reform, which will end the delays and frivolous appeals by convicted death row inmates. The importance of this provision has been made clear by the families of the victims of the Oklahoma City bombing, who have worked tirelessly to see this reform become law so that justice may be swift and sure.

Second is a provision allowing for the closed circuit viewing of the trial by families and victims who cannot be accommodated by the courtroom in Denver. The viewing would take place in Oklahoma and would allow these families and victims to fully benefit from our victims' rights laws which stipulate they be entitled to monitor the trial proceedings.

Mr. President, this bill deserves to be signed into law. For the families and victims of the Oklahoma City bombing, it represents a significant step in bringing closure to this terrible tragedy. I urge you to approve this vital change in our nation's laws to combat terrorism. It is the right thing to do.

Very truly yours,

FRANK KEATING.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 71 Leg.]

YEAS—91

Abraham	Faircloth	Lott
Akaka	Feinstein	Lugar
Ashcroft	Ford	McCain
Baucus	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Murkowski
Bingaman	Graham	Murray
Bond	Gramm	Nickles
Boxer	Grams	Nunn
Bradley	Grassley	Pressler
Breaux	Gregg	Pryor
Brown	Harkin	Reid
Bryan	Hatch	Robb
Bumpers	Heflin	Rockefeller
Burns	Helms	Roth
Campbell	Hollings	Santorum
Chafee	Hutchison	Sarbanes
Coats	Inhofe	Shelby
Cochran	Inouye	Simpson
Cohen	Jeffords	Smith
Conrad	Johnston	Snowe
Coverdell	Kassebaum	Specter
Craig	Kempthorne	Stevens
D'Amato	Kerrey	Thomas
Daschle	Kerry	Thompson
DeWine	Kohl	Thurmond
Dodd	Kyl	Warner
Dole	Lautenberg	Wellstone
Domenici	Leahy	Wyden
Dorgan	Levin	
Exon	Lieberman	

NAYS—8

Byrd	Kennedy	Pell
Feingold	Moseley-Braun	Simon
Hatfield	Moynihan	

NOT VOTING—1

Mack

The conference report was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I think this is a big victory for all of America, but most of all for those folks who suffered in Oklahoma City, OK, and other terrorist incidents in the world.

I want to acknowledge the work of some people who were critical to the passage of this bill—in particular, the

majority leader. The majority leader, BOB DOLE, is to be commended for his leadership. Once again, Senator DOLE has delivered for the American people. I personally express my gratitude to our distinguished majority leader.

I also want to acknowledge the work of Chairman HENRY HYDE over in the House, and my fellow conferees, Senators THURMOND, SIMPSON, BIDEN, and KENNEDY. Senators NICKLES and INHOFE deserve mention, too, because they never let this institution forget who this bill was for. All of the survivors from the Oklahoma tragedy and the Pan Am disaster were critical to this bill's passage. So they all deserve our thanks.

I want to mention a few of the other people who worked on this bill, as well—in particular, the staffers who worked long hours out of deep commitment to public service. Jeanne Lapatto, Christina Rios, Nick Altree, Mike Ashburn, John Gibbons, and Ed Richards were invaluable. Ashley Disque—a young woman who came to the committee as an L.C. and has not looked back—epitomized initiative. Mike Kennedy, an attorney who is going to go places, in my opinion, worked around the clock. Finally, I want to commend Mike O'Neill, our crime counsel. Mike is going to be leaving here in a few weeks to clerk for Justice Thomas over at the Supreme Court. Our loss is the Supreme Court's gain. Quite simply, Mike O'Neill, more than any other staffer, made this bill happen. Manus Cooney, our committee staff director and senior counsel is also to be commended.

Some of Senator BIDEN's staff should be mentioned as well—Demetra Lambros and Chris Putala are true professionals. Also, I would like to thank Valerie Flappan of the legislative counsel's office.

I also want to compliment the other House conferees and, in particular, Congressmen HYDE, MCCOLLUM, SCHIFF, BUYER, and especially BOB BARR from Georgia, who worked very hard on this bill and has provided an awful lot of input on this bill. Another staffer who should be mentioned here is Pat Murray, HENRY HYDE's able and dedicated counsel who, in working with our staff, helped craft a true terrorism bill. Paul McNulty also deserves credit. There are so many others I would like to commend at this point. But I will end at this point and thank all of these good people for the good work they have done.

I pay respect to my distinguished colleague, the minority leader on the Judiciary Committee. He is a tough, tough opponent. He is a very good advocate. It is one of the privileges in my life to be able to work with him on the Judiciary Committee and to be able to have this type of a relationship, and still to occasionally fight each other on the floor and, hopefully, walk away still friends.

In particular, I want to make all those congratulations.

I yield the floor.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 77–770, appoints the Senator from Louisiana, [Mr. BREAUX], to the Migratory Bird Conservation Commission, vice the Senator from Arkansas, [Mr. PRYOR].

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

MORNING BUSINESS

Mr. SPECTER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HISTORIC 70 WINS FOR THE CHICAGO BULLS

Mr. SIMON. Mr. President, Senators often make statements on the floor to inform the Senate and the Nation about the accomplishments of their constituents, and today I wish to acknowledge some folks back in Illinois who have achieved a historic feat unequaled by their peers. My colleagues may be familiar with this group of Chicagoans. I am speaking of the Chicago Bulls, who last night defeated the Milwaukee Bucks in a hard-fought, 86 to 80 game, to become the first National Basketball Association [NBA] team to win 70 games in a season.

In the nearly 50-year history of the NBA, 70 wins has been a mythical, seemingly unattainable goal. The 1971–72 Los Angeles Lakers came close with 69 wins, but now the Bulls have secured their place in the history books with 70, and with 3 games left in the season, that record could be higher.

Of course this achievement would not have been possible without the return of Michael Jordan, unarguably the game's greatest player ever. But we cannot overlook the efforts of his star teammates, from Scottie Pippen, Toni Kukoc, and Dennis Rodman, to the less publicized but invaluable players like Ron Harper, Luc Longley, Steve Kerr, and Bill Wennington, to name just a few. The talent of individuals however can only take you so far. A true champion needs a great leader, and coach Phil Jackson has fulfilled that role throughout his career, having guided the Bulls to three previous championships.

Should the Bulls go on to win the championship in June—their fourth of the decade—there is little doubt that they would be considered the greatest team in the history of professional basketball. I am proud to represent this group of individuals and congratulate them on their unprecedented accomplishment. I wish them the best of luck as they head into the playoffs.

CHICAGO BULLS WIN 70 GAMES

Ms. MOSELEY-BRAUN. Mr. President, I want to take this opportunity to commemorate a historic moment for the city of Chicago and the State of Illinois. Over the years, the members of this greatest deliberative body have engaged in some of the most compelling debates the world has ever heard: issues of States' rights, war and peace, and individual liberty. But as of last evening, one debate need no longer be considered: which is the greatest NBA team of all time, at least through the regular season. By recording their unprecedented 70th win of the regular season, the 1995–96 Chicago Bulls are one of the best teams of all time, and when they go on to secure an NBA championship, they will be without question, the greatest team in the history of professional basketball.

In the 49-year history of the National Basketball Association, no team has won 70 games in one season until the Chicago Bulls accomplished that remarkable feat—I am sad to say to my dear friend and colleague from Wisconsin, Senator KOHL—by defeating the Milwaukee Bucks last night 86 to 80. By winning their 70th game in 79 tries, the Bulls eclipsed a 24-year-old record set by the Los Angeles Lakers and now stand alone on the other side of what once was considered an impregnable barrier.

This year's Bulls team has elevated itself to an elite level in the history of sports. This team deserves to be ranked on the same level as the 1927 New York Yankees, the 1972 Miami Dolphins, and the 1977 Montreal Canadiens—all teams that embodied perfection in sports. It might also be noted that with this 70th win, Chicago now holds the distinguished honor of having or sharing three of the four major sports records for most wins in a regular season—the 1906 Cubs in baseball, 116 wins, the 1985 Bears in football, 15 wins and now, the Chicago Bulls. I know I speak for Bulls fans across the country in saying that we are energized and excited by the zealous pursuit of victory exhibited by our team this year.

It is no coincidence that the greatest team of all time is being propelled by the greatest player of all time—Michael Jordan. Michael Jordan has a combination of power and panache unmatched in the history of the NBA. He refuses to lose and his competitive nature, floor leadership, and will to win lifts the playing level of all those around him.

Mr. President, we all know that in team sports, true greatness cannot be achieved alone. Michael Jordan is surrounded by outstanding players in their own right—Scottie Pippen, Dennis Rodman, Toni Kukoc, and the rest of the lineup. Coach Phil Jackson has been able to skillfully mesh all the personalities of this team into an extraordinary combination of teamwork and individual achievement. The result is the 70-win accomplishment that has eluded basketball's best players and teams for decades.

On behalf of the city of Chicago and the State of Illinois, I want to offer my State's hearty congratulations to Coach Jackson and the entire Bulls organization for winning 70 games in the 1995–96 regular season, a record that may never be equaled.

CONGRATULATING NATIONAL PEOPLE'S ACTION ON 25 YEARS OF ACCOMPLISHMENT AND THEIR 25TH NATIONAL NEIGHBORHOODS CONFERENCE

Ms. MOSELEY-BRAUN. Mr. President, on Saturday, April 27, National People's Action (NPA), a national network of more than 300 community organizations, churches, and senior citizen groups from 38 States across the country, will open its 25th national neighborhoods conference here in Washington, DC.

I want to call the Senate's attention to this conference, because National People's Action represents America at its best—people from neighborhoods working together to improve their neighborhoods. The hundreds of organizations and the thousands of people from all walks of life who make up National People's Action are committed to their communities. They know that neighborhoods are critically important. They know that neighborhoods with good housing, neighborhoods that are safe, and neighborhoods with access to good jobs are places where families can achieve their own piece of the American dream. And perhaps most importantly, they know that by putting fundamental American values to work—by working hard to make those values an everyday part of life in their neighborhoods—they are making a real difference in their communities and in our country.

National People's Action is known as the first voice of our Nation's neighborhoods. This people's organization has, from its inception, spoken out for investing in neighborhoods, ending redlining by financial institutions, expanding the stock of good, affordable housing, implementing community-based approaches to crime prevention and policing, and expanding economic opportunity and the access to good jobs at good wages that are so essential to healthy communities.

NPA is a grass roots movement with an enviable record of accomplishment. I would like to take just a moment to highlight a few of those many successes. First, NPA played a key role in making the Community Reinvestment Act, the primary Federal tool for expanding access to capital, a reality, and NPA has used that tool to obtain over $25 billion worth of CRA lending agreements. These agreements mean access to mortgage money, home rehabilitation money, and economic development money for hard-working people living in hard-pressed neighborhoods that have all too often been cut off from capital in the past.

NPA created the lease-to-purchase mortgage product, the first of its kind in the United States. This innovative approach allows people who may not have the money to make a downpayment on a home to have a real opportunity to achieve perhaps the single most important element of the American dream—owning their own home.

And NPA, working with Freddie Mac, created an ingenious new type of mortgage for buildings with two-to-four units, thereby helping to revitalize this kind of housing, which is so important to so many cities and neighborhoods, and making it possible for neighborhood residents to become homeowners and landlords. The result of this resourceful approach are more homeowners in neighborhoods, and a better stock of rental housing.

While NPA's successes are varied, however, they all have the same theme. They are all about people, about making it possible for people in the neighborhoods and communities around our Nation to build a better life for themselves. NPA is a quintessentially American organization. It accomplishes a huge amount with very little money. It is nonbureaucratic. And it works right at the neighborhood level. It doesn't tell people what to do. Rather, it brings people together so that, by working together, they can make their neighborhoods better places to live for themselves and for their families.

National People's Action, and its national chairperson Gale Cincotta, deserve the Senate's commendation. As I stated at the beginning of my remarks, this organization embodies the essence of American values. NPA puts the values on which this Nation was founded to work for all of its people. I am therefore glad to have the opportunity to bring NPA's 25th annual neighborhoods conference to the Senate's attention, and I hope every Member of the Senate will attend this important event.

Mr. President, I ask unanimous consent that a complete list of NPA's major proneighborhood accomplishments be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

NPA'S MAJOR ACCOMPLISHMENTS

REINVESTMENT

Spearheaded enactment of the Home Mortgage Disclosure Act (HMDA) and the Community Reinvestment Act (CRA) which protect urban areas and minorities from loan discrimination.

Provided technical assistance to community groups which directly led to over $25 billion in NPA assisted CRA lending agreements.

Developed 10 city pilot affordable housing programs with the secondary market and private mortgage insurers which led to a nationwide low-downpayment program called the Community Homebuyers Program. The development of the CHBP has resulted in industry-wide changes in the standards for conventional lending and millions of home loans to low income families.

Coordinated the Chicago Reinvestment Alliance, which in 1984 developed a $363 million Neighborhood Lending Program. The program has been renewed twice, and to date, over $500 million have been lent and over 14,000 units of affordable housing and businesses have been created or rehabilitated in Chicago.

Coordinated the NPA/Aetna Neighborhood Investment Program, which provided over $100 million in loans for rehabilitation or construction of over 10,000 affordable housing units in 14 urban neighborhoods throughout the country.

Brought the Neighborhood Housing Services (NHS) to Chicago and has continued to support its expansion by developing new loan programs and funding sources.

Successfully advocated for increases in Community Development Block Grant (CDBG) funding and for increases in the targeting of CDBG funds to low and moderate income neighborhoods.

Created the Lease-to-Purchase mortgage product, the first-of-its-kind in the nation. This product allows individuals to enter the home as tenants and after a 2–3 year lease period become the homeowner, having accumulated a 10–15% downpayment to purchase. Lease-to-Purchase has become a standard affordable housing option.

Successfully advocated for performance oriented goals for Government Sponsored Enterprises (GSEs) requiring 30% of mortgages to be purchased in underserved markets and from low and moderate income families.

Created a unique low downpayment mortgage product for 2–4 unit buildings with Freddie Mac that allows for 75% of rental income to be used to qualify the applicant, thus creating an opportunity for homeownership for low income people.

Developed in conjunction with the Mortgage Guaranty Insurance Corporation (MGIC) the first ever purchase and default counseling training for community based counselors.

FEDERL HOUSING ADMINISTRATION

Through a national advocacy campaign, stopped abusive lending practices that resulted in catastrophic FHA foreclosures in the 1970s.

Secured 518(b) and (d) Payback Programs for buyers of defective FHA homes which provided funds for repair of major systems and structural defects.

Developed Repair and Sell Programs that rehabilitated vacant FHA homes in blighted neighborhoods.

Spearheaded the development of the FHA Assignment Program which provides assistance to those behind in their mortgage in order to prevent foreclosure.

Continued to research FHA lending practices and uncover abuses, such as illegal minimum loan amounts imposed by some FHA lenders.

Negotiated a HUD demonstration program that allows not-for-profit developers to obtain vacant, foreclosed properties at a 30% discount. Over 600 homes have been rehabilitated for low income families. This pilot program has become a permanent HUD program.

Successfully advocated for public disclosure by HUD of FHA lending activity and loan failure rates by mortgage company and census tract. Analysis of data has uncovered high default rates far exceeding HUD's definition of trouble areas.

CRIME AND DRUG PREVENTION

Developed 1976 community anti-crime program with the law Enforcement Assistance Administration which redirected LEAA funds to local community groups for local anti-crime programs.

Changed Illinois policy regarding the distribution of Asset Forfeiture funds to allow $500,000 to be returned to communities for crime prevention programs.

Coordinated along with the Chicago Police Department a Nuisance Abatement Program in four police districts that resulted in closing 1,000 drug houses during the first year of operation.

Provided 387 community groups, 42 police departments, and state and local government agencies with technical assistance to develop community based anti-crime and drug strategies.

Coordinated a national day of Reclaiming Our Neighborhoods in which 38 cities participated February 14, 1994.

Won change in Asset Forfeiture Regulations nationally, allowing communities to receive 15% of seized drug money and real property.

Was awarded $1.2 million cooperative agreement from the Bureau of Justice Assistance, U.S. Department of Justice to coordinate a demonstration program (1992–1995) in 13 cities across the country, Communities in Action to Prevent Drug Abuse.

Was awarded cooperative agreement from the Bureau of Justice Assistance—Department of Justice and the Department of Labor to coordinate Communities in Action to Prevent Drug Abuse II—Reclaiming Our Communities (1995–1997) in 10 cities across the country.

TRAINING

Was awarded a three year national VISTA grant in 1978 which resulted in training of almost 100 community staff in 48 community organizations.

Provided technical assistance and seed funding to 131 community groups since 1980 through the Mott Foundation's Strengthening Citizen Initiatives at the Local Level Program.

Provided training on financial management to community groups in 8 cities through a program developed with Allstate.

Offered week-long training courses since 1974 that have trained over 3,000 participants in community advocacy skills.

Provided on-site consultations that have resulted in development of dozens of new community organizations across the country.

Provided on-site training for at least 40 organizations a year.

Have coordinated national conferences on Housing, CRA, Jobs, Insurance and Drugs providing an area for all the players to come together to discuss their concerns. Each conference attracted over 500 participants.

ENERGY

Provided training and consulting for 147 community groups on natural gas deregulation in the late 1970s and early 1980s.

In the mid 1980s, founded the Affordable Budget Coalition to address the rash of utility shut-offs plaguing Illinois. The ABC became independent in 1987.

Assisted community groups to intervene in utility rate cases before the Illinois Commerce Commission, resulting in almost $2 billion in refunds.

Has been an expert witness in telephone and electric utility cases and performed an analysis of Currency Exchange rates charged to cash government benefit checks for use in rate investigation of the Illinois Department of Financial Institutions.

Currently working with community groups and participating in policy forums on the deregulation of the electrical utility industry in Illinois.

Working with community groups, government agencies and electric and natural gas utility companies to establish a long-term solution to the low income residential energy crisis and the decline of federal energy assistance funding.

Providing training for Community Action Agency's low income board members across the country in cooperation with the Illinois Community Action Agency under a contract from the U.S. Department of Health and Human Services.

INSURANCE

Developed new urban property insurance products and increased urban investments with leading companies, including Allstate and State Farm as a response to NPA advocacy against insurance redlining.

THE HEALTH INSURANCE REFORM ACT OF 1995

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the following items with regard to S. 1028 be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 22, 1995.

Hon. NANCY LANDON KASSEBAUM,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office [CBO] has reviewed S. 1028, the Health Insurance Reform Act of 1995, as ordered reported by the Senate Committee on Labor and Human Resources on August 2, 1995. CBO estimates that enactment of S. 1028 would not significantly affect the federal budget. (Each state's insurance commissioner would ensure that the requirements of this legislation are carried out by health insurance carriers in their state; CBO has not attempted to estimate the amount by which state government spending could be changed.) Pay-as-you-go procedures would apply because the bill could affect direct spending and receipts. the estimated change in direct spending and receipts, however, is not significant.

This bill would create uniform national standards intended to improve the portability of private health insurance policies. for example, these standards would allow workers with employment-based policies to continue their coverage more easily when changing or leaving jobs. Because most private insurance plans require a waiting period before new enrollees become eligible for coverage, especially for preexisting medical conditions, workers with chronic conditions or other health risks may face gaps in their coverage when they change jobs. Alternatively, such workers may be hesitant to change jobs because they fear the temporary loss of coverage, a situation known as ''joblock.''

S. 1028 would reduce the effective length of exclusions for preexisting conditions by crediting enrollees for continuous coverage by a previous insurer. Insurance companies would be prohibited from denying certain coverage based on the medical status or experience of individuals or groups and would be required to renew coverage in most cases. Insurers could not deny coverage to individuals who have exhausted their continuing coverage from a previous employer. This bill would allow individuals to change their enrollment status without being subject to penalties for late enrollment if their family or employment status changes during the year. To the extent that states have not already implemented similar rules, these changes would clarify the insurance situation and possibly reduce gaps in coverage for many people.[1]

Because the bill would not regulate the premiums that plans could charge, the net number of people covered by health insurance and the premiums that they pay would continue to be influenced primarily by current market forces. In other words, although insurance would become more portable for some people under this bill, it would not become any more or less available in general.

S. 1028 could affect the federal budget in two primary ways. First, if the bill changed the amount of employer-paid health premiums, total federal tax revenues could change. For example, if the amount employers paid for premiums rose, cash wages would probably fall, thereby reducing income and payroll tax revenues. If individuals paid more for individually-purchased insurance, they could increase their itemized deductions for health expenses. Second, if the bill caused people insured by Medicaid or government health programs to purchase private coverage, then federal outlays for those programs could change.

According to the General Accounting Office [GAO], 38 states have enacted legislation to improve the portability and renewability of health plans among small employers.[2] The state laws do not apply to employees of larger firms with self-funded insurance plans, however, and the GAO report finds that state laws generally do not apply to the market for individually-purchased insurance.

Because many insurance reforms have already been implemented by the states, GAO assumes that the new national standards created by S. 1028 would not significantly change the insurance market for most people. Although the national standards created by S. 1028 would improve the portability of health insurance for some additional groups or individuals, GAO assumes that the incremental change in the insurance marketplace would be minor. Any changes to overall insurance coverage or premiums caused by the bill would probably be small, and the direction of the change is uncertain. Most people subject to the new insurance rules would have had coverage under the old rules, so their total health spending would probably not be noticeably different. Therefore federal revenues would be unlikely to change.[3]

CBO estimates that federal outlays for Medicaid would not change because any persons eligible for free coverage from Medicaid under current law would also seek out Medicaid coverage if S. 1028 was enacted. CBO also estimates that the bill would cause no appreciable changes to federal outlays for Medicare, Federal Employees Health Benefits, or other federal programs.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff Lemieux.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

FOOTNOTES

[1] For additional discussion, see GAO testimony ''Health Insurance Regulations, National Portability Standards Would Facilitate Changing Health Plans,'' July 18, 1995, before the Senate Committee on Labor and Human Resources.

[2] Health Insurance Regulation: Variation in Recent State Small Employer Health Insurance Reforms (GSO/HEHS–95–161FS, June 12, 1995).

[3] CBO cooperates with the Joint Committee on Taxation to produce estimates of revenue changes under proposals that would change the private health insurance market. Following CBO's estimate that S. 1028 would not significantly change spending for private health insurance, the Joint Committee assumes that federal revenues would not change.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 22, 1996.

Hon. NANCY L. KASSEBAUM,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed

Footnotes at end of letter.

mandate cost statements for S. 1028, the Health Insurance Reform Act of 1995, as reported by the Senate Committee on Labor and Human Resources on October 12, 1995.

Enactment of S. 1028 would impose both intergovernmental and private sector mandates. The cost of the intergovernmental mandates would not exceed the applicable $50 million threshold, but the costs of the private sector mandates would exceed the applicable $100 million threshold.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director*.

Enclosure.

CONGRESSIONAL BUDGET OFFICE ESTIMATED COST OF INTERGOVERNMENTAL MANDATES

1. Bill number: S. 1028.

2. Bill title: The Health Insurance Reform Act of 1995.

3. Bill status: As reported by the Senate Committee on Labor and Human Resources on October 12, 1995.

4. Bill purpose: S. 1028 would make it easier for people who change jobs to maintain adequate coverage by requiring issuers of group health plans and sponsors of health plans for employees to: Limit exclusions for preexisting conditions to 12 months (18 months for late enrollees) with a one-for-one offset against the exclusion for continuous coverage; not impose eligibility requirements based on health status or other medical information; and offer special enrollment periods when an employee experiences a change in family composition (e.g., the birth of a child) or a family member of an employee loses health coverage under another health plan because of a change in employment status.

In addition, the bill would require health plans sponsored by employers to: extend COBRA coverage an additional 11 months if an employee becomes disabled during the 18 months of the original COBRA coverage or has disabled dependents, and provide immediate coverage to newborns or adopted children under a parent's COBRA policy.

Furthermore, S. 1028 would increase the portability of health insurance from group coverage to individual coverage by requiring issuers of individual health insurance to provide coverage if an individual has had 18 months of continuous coverage. In addition, the bill would assist employers and individuals in establishing voluntary coalitions for purchasing group health insurance and preempt some state laws dealing with purchasing cooperatives. Finally, if the bill is enacted, states would have the option of enforcing the bill's requirements regarding group and individual health insurance. If a state chooses not to enforce the requirements, the federal government would enforce them.

5. Intergovernmental mandates contained in bill: S. 1028 contains several intergovernmental mandates as defined in Public Law 104–4, primarily the new requirements that would be imposed on health plans sponsored by employers. State and local governments who offer their employees health insurance would have to abide by these requirements.

6. Estimated direct costs to State, local, and tribal governments:

(a) *Is the $50 Million a Year Threshold Exceeded?* No.

(b) *Total Direct Costs of Mandates:* S. 1028 would increase the cost of health insurance for covered employees of state and local governments, but this cost would primarily be borne by the employees themselves and not by state or local taxpayers. Although CBO cannot provide a precise estimate, any increase in the cost of health insurance for employees of state and local governments would amount to less than $50 million annually. As a result of higher health care costs, state and local governments would reduce other elements of their employees' compensation packages by a corresponding amount. The amount of total compensation paid by the state and local governments would thus remain unchanged in the long run. Except for an initial transition period, during which state and local governments may not be able to change other elements of their employees' compensation packages, state and local governments would not be required to spend additional funds to comply with these mandates.

(c) *Estimate of Necessary Budget Authority:* None.

7. Basis of estimate: Based on a limited survey of State and local governments, CBO found that the health insurance plans currently offered by State and local governments are generally in compliance with S. 1028. However, some State and local governments would have to make minor adjustments to their plans. Almost all plans already limit to 1 year, or do not include, exclusions for preexisting conditions, but only a few of the plans that have exclusions allow an offset against the exclusion for continuous coverage. In addition, some plans do not offer special enrollment periods when a family member of a participant loses his or her health insurance under another plan because of a change in employment. Finally, the expansion of COBRA coverage would affect all plans.

CBO estimates that the cost of S. 1028 to the private sector for the group health insurance reforms would total about $300 million. A simple calculation, based on the number of employees involved, would indicate that the cost of S. 1028 for employees of State and local governments would be $60 million. CBO believes that the cost would actually be significantly less than this, however, because health plans sponsored by State and local governments are generally more liberal than plans sponsored by private sector employers. State and local governments therefore would be confronted with fewer changes as a result of S. 1028. The cost of the mandates imposed on State and local government would clearly be less than $50 million, a change of about 0.1 percent in the approximately $40 billion that is now spent on health insurance for employees of State and local governments.

Economists generally believe, and CBO's cost estimates have long assumed, that workers as a group bear most of the cost of employers' health insurance premiums. The primary reason for this conclusion is that the supply of labor is relatively insensitive to changes in take-home wages. Because most workers continue to work even if their take-home pay declines, employers have little trouble shifting most of the cost of additional health insurance to workers' wages or other fringe benefits.

8. Appropriation or other Federal financial assistance provided in bill to cover mandate costs: None.

9. Other impacts on State, local and tribal governments: States would have the option of enforcing the requirements of S. 1028 on issuers of health insurance in the group and individual markets. If a State decides not to enforce the new requirements, the Federal Government would do so. Because enforcement would be voluntary, this provision would not impose an intergovernmental mandate as defined in Public Law 104–4. However, the enforcement provisions would have a budgetary impact on State governments. States currently regulate the group and individual markets, and CBO does not expect any State to give up this authority and responsibility. States thus would incur additional costs as they enforce the new requirements. In 1995, according to the National Association of Insurance Commissioners, States spent $650 million regulating all forms of insurance (health and others). CBO expects that S. 1028 would increase these costs only marginally.

10. Previous CBO estimate: None.

11. Estimate prepared by: John Patterson.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

CONGRESSIONAL BUDGET OFFICE ESTIMATE OF COSTS OF PRIVATE SECTOR MANDATES

1. Bill number: S. 1028.

2. Bill title: Health Insurance Reform Act of 1995.

3. Bill status: As reported by the Senate Committee on Labor and Human Resources on October 12, 1995.

4. Bill purpose: The purpose of S. 1028 is to increase access to health care benefits for workers and their families both while the workers are employed and after they leave employment. It would also increase the portability of health insurance when workers change jobs, and make other changes affecting health care benefits.

5. Private sector mandates contained in the bill: S. 1028 contains several private sector mandates as defined in P.L. 104–4 that would affect the private health insurance industry. Three general areas of coverage would be affected: (1) the group and employer-sponsored health insurance market, (2) the extensions of health insurance required under the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, and (3) the market for individual health insurance.

Mandates on group insurers and employee health benefit plans

The bill would require sellers of group health insurance to cover any group purchaser who applies. Group insurers could stop selling coverage only under certain conditions, such as ceasing to offer coverage to any additional group purchasers. Under those circumstances, they could resume offering coverage only after a 6 month cessation and would be required to resume on a first-come-first-served basis. Those availability provisions would apply separately to the ''large group'' and ''small group'' markets—that is, an issuer would be allowed to serve only one of those markets. Group insurers would also be required to renew coverage at the option of the group purchaser, except in certain circumstances including nonpayment of premiums, or fraud or misrepresentation on the part of the group purchaser. Network plans would not be required to renew coverage to people living outside the geographic area covered by the plan as long as this action is done on a uniform basis, without regard to the health status of particular individuals.

Several provisions of the bill would apply both to sellers of group insurance and to employee health benefit plans that are ''self-insured'' by firms. Eligibility, enrollment, and requirements relating to premium contributions could not be based on the employee's health status, claims experience, or medical history.

In addition, the bill would limit the use of pre-existing condition exclusions—clauses that exempt the plan from paying for expenses related to a medical condition that already existed when an enrollee first joined the plan. Under the bill, twelve months would be the maximum allowable duration of a pre-existing condition exclusion (eighteen months for employees who did not join the plan at their first enrollment opportunity). Furthermore, month-for-month credit against that exclusion would have to be given to enrollees for continuous coverage that they had prior to joining a new plan. (Insurers and health benefit plans would be required to keep records to document the previous coverage.) In addition, pregnancy could not be excluded by a pre-existing condition clause, and children who were signed up with a plan within thirty days of birth could not have any existing conditions excluded from coverage. (A similar provision applies for adopted children.)

Affiliation periods, in which new enrollees pay no premium but receive no benefits, could be used if pre-existing condition exclusions were not part of the plan. However, such periods would be limited to sixty days (ninety days for late enrollees).

Finally, the bill would require that health plans offer special enrollment periods for participants or family members for various changes in family or employment status.

Mandates extending COBRA continuation coverage

Under certain circumstances, the bill would compel firms to extend so-called ''COBRA'' coverage to former employees or their family members for a longer period of time than is currently required. Under current law, firms that offer health insurance as part of their employee benefits package and employ 20 or more people must allow employees (and family members) to continue coverage for 18 months after leaving employment (or for certain other reasons), at a cost that cannot exceed 102 percent of the premium for regular employees. Under certain circumstances, such as if a worker is disabled when he or she first qualifies for COBRA coverage, an additional 11-month extension of coverage also must be made available.

The bill would extend COBRA coverage by specifying an additional condition that would qualify former employees (or their insured family members) for the 11-month extension period after the initial 18-month period. In particular, if a former employee were to become disabled during the first 18 months of extended coverage, then they would qualify for the additional 11-month period. Disability of an insured family member also would be a qualifying condition for continuation of CORBA coverage. Under the current law COBRA provisions, a premium of 150 percent of the premium for regular employees could be charged to former employees in the additional 11-month period.

Mandates affecting the individual insurance market

Under S. 1028, sellers of individual health insurance policies would be required to cover individuals who wanted to enroll in an individual health plan, regardless of their medical history or claims experience, if they had at least 18 months of continuous prior coverage by one or more group health plans or employee health benefit plans. To be eligible for such group-to-individual market ''portability,'' the individual applicant also would have to be ineligible for coverage by another group health plan, employee health benefit plan, or COBRA continuation coverage. The bill would leave the determination of premiums to the applicable state laws or regulations.

Issuers of individual plans also would be required to renew policies at the option of the insured individuals, except for certain circumstances including nonpayment of premiums or fraud.

To the extent that state laws or regulations were a suitable substitute for the provisions of the bill, the federal rules would not apply. Examples of such substitutes could include laws providing for state-sponsored high-risk pools that provide coverage to those who could not otherwise obtain private coverage, open enrollment by one or more health plan issuers to facilitate coverage in the individual market, and guaranteed issue of insurance to all individuals regardless of their health status.

6. Estimated direct cost to the private sector: CBO estimates that the direct cost of the main private sector mandates in S. 1028 would be approximately $350 million in the first year the provisions were effective, rising to about $500 million annually in the fifth year. Those mandate costs represent about one-quarter of one percent of total private sector health insurance expenditures, although their distribution among health insurance plans would be uneven. (Plans that cover public sector employees are not included in this analysis.) These estimates are subject to considerable uncertainty because a number of underlying assumptions rely on limited data or judgments about future changes in health insurance markets.

The specific mandates examined in this estimate are: Limiting the length of time employer-sponsored and group insurance plans could withhold coverage for pre-existing conditions; requiring that periods of continuous prior health plan coverage be credited against pre-existing condition exclusions of a new plan; extending the conditions under which an employer would have to offer 11 additional months of COBRA coverage for disabled people; and requiring issuers of individual health insurance policies to offer coverage to all individuals who meet specific requirements, including 18 months of prior continuous group of employer-sponsored coverage.

Basis of the estimate: The direct costs of those mandates consist of the additional health expenses that would be covered by insurance as a direct result of their implementation. Expenses for pre-existing conditions that would have to be paid by insurers under the bill but would not have been insured under current law, for example, are included in aggregate direct costs. In contrast, insured expenses that would be transferred among different insurers because of the bill are not included in aggregate direct costs.

In making this estimate, CBO did not attempt to value any social benefits that might result from expansions in insurance coverage. That is, the estimate accounts only for the additional insurance costs of the mandates, not the value of additional insurance coverage to beneficiaries. Nor was there an attempt to quantify any indirect costs or benefits. Such indirect effects could include, for example, loss of coverage if an employer ceases to offer group coverage when premiums rise, or increases in worker mobility (or reduced ''job lock'') with greater portability of benefits. It would be important to weigh all such factors in considering the bill, but only estimates of the direct costs of the mandates in the bill are required by P.L. 104–4, the Unfunded Mandates Reform Act.

Direct costs of mandates on group insurers and employee health benefit plans

Two of the principal mandates in S. 1028 affect group and employee health benefit plans: (1) limiting the maximum length of pre-existing condition exclusions, and (2) requiring that health plans reduce the length of pre-existing condition exclusions for people with prior continuous coverage under other health plans. CBO estimates that the direct cost of those two mandates would total about $300 million in each of the first five years the provisions would be effective. This cost is approximately 0.2 percent of the total premium payments in the group and employer-sponsored market.

Limiting the Maximum Length of an Exclusion. The mandate to limit exclusions for pre-existing conditions to 12 months (18 months for late enrollees) is estimated to have a direct private-sector cost of about $200 million per year. This estimate is based on two components: (1) the number of people who would have more of their medical expenses covered by insurance if exclusions were limited to one year or less, and (2) the average cost to insurers of that newly insured medical care.

CBO used data from the Survey of Employee Benefits in the April 1993 Current Population Survey (CPS) to estimate the number of people with conditions that are not now covered because of a pre-existing condition exclusion of more than one year. The survey asks respondents whether they or a family member have a medical condition that their employment-based plan is not covering because of a pre-existing condition exclusion. It also asks respondents how long they have been with their present firm. For people with medical conditions excluded by a pre-existing condition clause, responses to the second question are used to estimate whether the exclusion period exceeds one year.

A number of adjustments were made to the data. In particular, CBO's estimate of the number of people affected by S. 1028 excluded people who said they were limited by a pre-existing restriction but who also had other health insurance coverage, because the other insurance plan might have covered their pre-existing conditions. Under those circumstances, the limitation imposed on employment-based plans by S. 1028 would not raise their aggregate costs.

The second modification to the CPS data adjusted for changes in the insurance market that have occurred since the survey date of 1993. In particular, since that time, about 40 states have implemented laws affecting the small group insurance market that would limit pre-existing condition exclusions to one year or less and require that previous coverage be credited against those exclusions. Those laws generally apply to groups of 50 or fewer employees and do not include self-funded health benefit plans. Because plans covered by such state laws would not have to change their provisions as a result of S. 1028, CBO lowered its initial estimate of the number of people affected by the bill.

CBO's analysis led to the conclusion that approximately 300,000 people would gain coverage under S. 1028 for some condition that would otherwise be excluded by a long (more than one year) pre-existing condition clause. This estimate represents less than 0.3 percent of people with private employment-based coverage.

The other component of the estimated private-sector cost is the average cost of the coverage that would become available under S. 1028. A recent monograph from the American Academy of Actuaries (referred to as the Academy) indicated a surge in claims costs of 40 to 60 percent when a pre-existing

condition exclusion period expired for a sample of people with high expected medical costs.[1] That range is consistent with information from Spencer and Associates indicating that the costs of policies for former employees who have chosen to take extended COBRA coverage are 55 percent higher than those of active employees.[2] Applying those percentages to the average premium cost in the employer-sponsored market yields a potential range of additional costs of $600 to $900 a year per person who would gain coverage under S. 1028.

Crediting Prior Coverage Against Current Exclusions. Another provision in S. 1028 would require insurers under certain circumstances to credit previous continuous health insurance coverage against pre-existing condition periods. That provision is estimated to have a private sector cost of about $100 million per year. The key components of this estimate are: (1) the number of people who would receive some added coverage, and (2) the additional full-year cost of coverage, adjusted to reflect the estimated number of months of that coverage.

CPS data were used to estimate the number of people who would receive some added coverage under this mandate. These are people who would otherwise face some denial of coverage under a pre-existing condition exclusion period of one year or less, and who would qualify for a shortened exclusion period based on prior continuous coverage. CBO estimates that about 100,000 people would receive some added coverage under this provision of the bill. The relatively small size of this estimate is due largely to the difficulty of meeting the restrictive eligibility criteria for the reduction in the exclusion period—particularly the requirement that at most a 30-day gap separate prior periods of insurance coverage from enrollment in the new plan.

The average number of months of coverage these people would gain is constrained by the one-year limit on the exclusion period that would be required under the bill. Based on information from a 1995 study by KPMG Peat Marwick, CBO estimates that people who would qualify would gain coverage for an average of 10 months.[3] CBO's estimate of the additional insured costs per person is based on evidence from the Academy, which suggested that people with pre-existing condition exclusions may not seek treatment during the exclusion period but have rapid increases in expenses when that period expires. That behavior would reduce the effectiveness of exclusion periods in protecting insurers from treatment costs. The shorter the exclusion period, the less effective the pre-existing exclusion is at reducing the insurer's costs. CBO consequently assumed that full-year insured costs of people getting coverage for pre-existing conditions under this provision would rise by less than 40 percent.

Other Considerations. The estimated direct cost of the mandate to limit the length of pre-existing condition exclusions is about $200 million annually, and the cost of the mandate to credit previous coverage against pre-existing condition exclusions is about $100 million. Together, those mandate costs amount to about 0.2 percent of total premium payments in the group and employer-sponsored market.

Those estimates are subject to considerable uncertainty for several reasons. First, they are based on individuals' responses to surveys, which should be treated with caution. In addition, unforeseen changes in health insurance markets could result in the estimates being too low or too high. Larger than expected increases in medical costs would result in higher direct costs than estimated. On the other hand, the growth of managed care plans would lower the direct costs of the bill. The magnitude of this effect would depend on the relative growth of HMOs, which generally do not use pre-existing condition exclusions, as compared to PPO and POS plans, many of which do use preexisting condition exclusions.

The distribution of the direct costs of the mandates would be uneven across health plans. Only plans that currently use pre-existing condition exclusions of more than 12 months would face the $200 million direct cost of the first mandate. Data from the Peat Marwick survey indicate that 2.5 percent of employees are in such health plans. Consequently, the costs to health plans that use long pre-existing condition exclusions would be about 4.5 percent of their premium costs. Likewise, only health plans that use pre-existing condition exclusions would face the direct cost of the mandate to credit previous coverage against the pre-existing exclusion. The data indicate that almost half of employees are in such plans—implying that the plans directly affected by this mandate would have direct costs equal to about one-tenth of one percent of their premiums under current law.

Employers could respond in a number of ways to the additional insured costs that would arise under these provisions of the bill. They could reduce other insurance benefits, increase employees' premium contributions, or reduce other components of employee compensation. Employers would be likely to respond in different ways, and these changes could take time. Some employers that currently offer health insurance to their employees might drop that coverage if the costs became too large, although the magnitude of such a reaction would probably be modest. These employer responses, which would offset the costs of the mandates, are indirect effects and do not enter into our estimates of the direct costs to the private sector of the insurance mandates.

Direct costs of mandates extending COBRA continuation coverage for the disabled

CBO estimates that the aggregate direct costs of the COBRA extension for disabled people would be negligible. Although individuals qualifying for the extension would be expected to have covered health expenses about three times greater than their premium payments, very few people would actually participate.

CBO used two approaches to estimate the number of people who would take advantage of the new COBRA extension. The first method used evidence on the number of employees electing COBRA coverage under current law who are disabled. A study by Flynn found that only 0.09 percent of COBRA elections are by disabled people.[4] Even under the assumption that the number of disabled people having COBRA coverage would double as a result of the new extension, fewer than 5,000 people a year would be covered by that extension.

In the second approach, CBO used data from the 1992 Survey of Income and Program Participation (SIPP) to examine the prior insurance status of people who became covered under Medicare disability coverage. That analysis also suggested that the number of people qualifying for the additional COBRA coverage under S. 1028 would be extremely small.

The costs of coverage for disabled people were estimated using information from the 1987 National Medical Expenditure Survey, which indicated that non-elderly disabled people had medical expenditures four to five times greater than non-disabled people. Those higher costs would be partly offset by additional premiums that would be collected from persons using the COBRA extension. COBRA allows insurers to charge those people up to 150 percent of the premium for regular employees. Consequently, assuming the full COBRA premium was assessed, the insured costs of disabled people taking the new extension would be about three times higher than the premiums they would pay.

Direct costs of mandates affecting the individual insurance market

S. 1028 would require issuers of individual health insurance policies to offer coverage to all people who have had group or employer-sponsored coverage continuously for at least 18 months immediately prior to enrolling, but who are not eligible for additional COBRA or other group coverage. CBO estimates that this group-to-individual portability provision would impose aggregate direct costs on the private sector of less than $50 million in the first year the law was effective. Those aggregate direct costs would rise to about $200 million annually in the fifth year.

The mandate costs are added insurance costs of people who would gain coverage minus premium payments that the newly covered individuals themselves would make to insurers. Premium payments are subtracted because they would directly offset part of the cost of the mandate imposed on insurers.

A key element of this estimate is the calculation of the number of people who would both qualify for and desire to purchase individual market insurance under the provisions in S. 1028, but who would not be extended insurance coverage under current law. CBO analyzed data from the 1992 SIPP to determine the number of people who: (1) had 18 months of prior continuous group coverage, and (2) would purchase an individual policy if insurers were not permitted to exclude them on the basis of health. We assumed that uninsured survey respondents who indicated that they were too sick to obtain insurance would fulfill the latter condition. The data suggest, however, that only about 25 percent of such people would meet S. 1028's requirement of 18 months of continuous prior group coverage.

Because the SIPP survey used in this analysis ended in late 1993, we made two additional adjustments to our estimate. First, we corrected for changes in the number of uninsured since 1993. Second, we reduced our estimate to account for state legislation that supersedes the S. 1028 provision. Many states undertook reforms of their individual insurance markets prior to the time of the survey, and a few additional states have implemented such laws since then. We assumed that all states with comparable laws would get waivers from the S. 1028 provisions affecting the individual market. Accordingly, the estimate assumes that the mandate would only be effective in states accounting for about 5.4 million of the estimated 13.4 million people currently having individual coverage.[5] (Note that estimates of the number of people insured through the individual market vary considerably. CBO's assumption is consistent with that of the Academy.)

CBO concludes that approximately 40,000 people would become covered by the end of the first year the bill would be effective because of the group-to-individual portability provision. The number of covered people would grow gradually over time as more people who, in the absence of S. 1028, would have been denied coverage because of poor health would meet the 18-month continuous group coverage requirement and choose to purchase individual insurance. In about four years, the number of people covered because of those portability provisions would plateau

Footnotes at end of article.

at around 150,000 people. Those estimates refer only to the number of people who gain insurance coverage as a result of S. 1028. The estimates do not include people who might decide to move into individual insurance coverage under S. 1028 but would have had insurance coverage from elsewhere in the absence of the bill. It would not be appropriate to count such people toward the aggregate direct costs of the bill because their medical expenses would have been insured anyway.

In order to complete the estimate, we calculated the direct mandate costs per person who would obtain individual coverage because of this bill. Those costs equal the difference between the added insurance costs of the people who would gain coverage and the premium payments that those newly covered people would make to insurers. Neither the additional insurance costs, nor the additional premium revenue, can be estimated with a high degree of confidence.

S. 1028 would prohibit the denial of coverage because of health status or claims experience. Consequently, people gaining coverage through the portability provisions of S. 1028 would cost more, on average, than the typical person who currently purchases an individual policy. But, because of the multiple eligibility criteria required by S. 1028, surveys of health expenditures do not provide an adequate basis for a specific estimate of those higher costs.

Likewise, the premiums that insurers might charge newly covered people are highly uncertain because they depend on the unknown responses of state insurance regulators that are likely to vary among the states. At one extreme, state regulators might not allow insurers to charge higher premiums for people qualifying under the S. 1028 portability provisions. The loss on those people would then be relatively large. At the other extreme, state regulators might allow insurers to charge them their full expected costs. In that case, there would be no loss to insurers, and consequently no aggregate costs from that mandate.

Previous studies offer divergent views on these issues. The Academy assumed that people obtaining individual coverage through the portability provisions would have costs two to three times as high as standard risks.[6] They also assumed that the premiums those people would pay would range from 125 to 167 percent of the average individual premium. That is, the Academy assumed that states would limit what insurers could charge to less than the full cost of the benefit.

The Health Insurance Association of America (HIAA) assumed that newly covered people who exhausted their COBRA coverage would have costs between two and three times the average, while the cost of those not eligible for COBRA coverage would be 1.5 to two times the average[7] HIAA made no specific assumptions about the rating rules that states would impose on health plans in the individual market.

Although neither the costs nor the insurance premiums associated with the newly covered individuals are known, it is not unreasonable to assume that state insurance commissioners would take the additional costs, and their potential effects, into account in regulating the individual market. If, for example, the expected costs of the newly insured people were high relative to others in the individual market, insurance regulators might allow insurers to charge such people relatively high premiums. Conversely, if the expected costs of the newly insured people were not much higher than others in the individual market, state regulators might not allow their premiums to deviate much from the market average.

This relationship can be viewed in terms of a target ''loss'' percentage that regulators might seek. That percentage would be the difference between the cost of coverage and the premium, expressed as a share of the average premium in the individual market. Based on a wide range of possible cost and premium factors, CBO assumed that the insurers' loss percentage associated with the newly covered individuals would be about 70 percent. That is, the difference between premium income and insurance costs for the newly insured people is expected to be about 70 percent of the average premium paid by others in the individual market.

Multiplying the loss percentage by the average individual market premium under current law and by the number of newly covered people yields the estimated aggregate direct costs of the group-to-individual portability provision. Those costs are expected to be less than $50 million in the first effective year of the legislation and to rise to about $200 million annually by the fifth year.

Other Considerations. For those states in which the individual market mandates are expected to apply, premiums are estimated to be around 0.5 percent higher than otherwise by the end of the first year of implementation and to be approximately 2 percent higher than otherwise by the end of the fifth year. Those premium increases represent the excess costs that presumably would be passed on to people who would have acquired individual policies in the absence of this bill. The estimates of premium increases are limited to those costs attributable to people who obtain insurance in the individual market who would have been uninsured in the absence of S. 1028.

If individual insurance premiums rose sufficiently as a consequence of S. 1028, some people with individual coverage would probably drop their insurance. Those most likely to do so would be lower-income people who were not in poor health. CBO used an analysis by Marquis and Long to estimate the number of people who would drop out of the individual insurance market in response to higher premiums.[8] By the fifth year after S. 1028 became effective, about 35,000 people who would have purchased individual policies in the absence of this legislation would not do so. Overall, however, the number of people with insurance in the individual market would probably rise as a result of S. 1028.

CBO's estimate assumes that states that already meet the individual market standards in S. 1028 would be granted waivers of those requirements. Initiatives such as guaranteed issue laws and state-sponsored risk pools to provide insurance for high-risk people may qualify states for waivers. The Academy has suggested, however, that states may not seek those waivers even when they are eligible. States might see the provisions of S. 1028 as a mechanism to transfer some individuals out of partially state-subsidized high-risk insurance pools into the private market, where their additional costs would be picked up entirely by the private sector.

7. Appropriations or other Federal financial assistance: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: James Baumgardner.

10. Estimate approved by: Joseph Antos, Assistant Director for Health and Human Resources.

[1] See American Academy of Actuaries, ''Providing Universal Access in a Voluntary Private-Sector Market,'' February 1996.

[2] Charles D. Spencer and Associates, Inc., ''1995 COBRA Survey: Almost One in Five Elect Coverage, Cost is 155% of Actives' Cost,'' Spencer's Research Reports (August 25, 1995).

[3] Based on unpublished tabulations from KPMG Peat Marwick, LLP, Survey of Employer-Sponsored Benefits, 1995.

[4] Patrice Flynn, ''COBRA Qualifying Events and Elections, 1987–1991,'' Inquiry, vol. 31, no. 2 (Summer 1994), pp. 215–220.

[5] Calculations based on consultations with the Congressional Research Service/Hay Group concerning state individual insurance market laws.

[6] American Academy of Actuaries, ''Comments on the Effect of S. 1028 on Premiums in the Individual Health Insurance Market,'' February 20, 1996.

[7] Health Insurance Association of America, ''The Cost of Ending 'Job Lock' or How Much Would Health Insurance Costs Go Up if 'Portability' of Health Insurance Were Guaranteed; Preliminary Estimates,'' July 26, 1995.

[8] M. Susan Marquis and Stephen H. Long, ''Worker Demand for Health Insurance in the Non-Group Market,'' Journal of Health Economics, vol. 14, no. 1 (May 1995), pp. 47–63.

SEXUAL OFFENDER TRACKING AND IDENTIFICATION ACT OF 1996

Mrs. HUTCHISON. Mr. President, in response to the number of repeat crimes that are committed by convicted sex offenders, Senator GRAMM and I are offering legislation to require all such individuals to register with the FBI.

Society needs to know where these predators are at all times. Individual States are creating registries of convicted sex offenders and devising other measures to address the problem—my home state of Texas has moved forward aggressively on this front.

Unfortunately, for my State and others, there is a continuing worry despite such progress: individuals convicted of 1,000 cases of child molestation scheduled to be released in Texas this year alone.

Currently, 47 States have registry laws which apply to sex offenders, but these track such felons only within the individual State. There is no national registry. There is no formal network for law enforcement agencies to communicate with each other about know sexual predators. As a result, a convicted rapist or child molester released in Texas can move to, say, Vermont—which has no registry law—and disappear from law enforcement records. This ability to move from one State to the next unmonitored has provided tens of thousands of sex offenders with the opportunity to commit yet more deviant acts.

The legislation Senator GRAMM and I are introducing would close this immense loophole by creating a national computer registry to track convicted sex offenders. Our bill would:

Require all sex offenders to register with the FBI for 10 years following their release from prison, drawing on State registries.

Authorize the FBI to register and track offenders living in States with no registry program.

Require the FBI to ensure that local authorities are notified every time a sex offender moves into or out of their jurisdiction.

Allow private and community organizations access to the sex offender files through their local law enforcement agencies;

Preserve State authority in determining whether (or how) the public at large will be notified of the presence of sex offenders in a community.

Provide penalties for those who fail to register.

This will provide a tracking program nationwide. It is an appropriate function of the Federal Government to keep tabs on such offenders—and help to arm communities with information that might well prevent future, similar, horrifying crimes. We know that 40 percent of convicted sex offenders will repeat their crimes. We must begin acting on that information.

Mr. President, Senator GRAMM and I are not asking that any money be appropriated for this purpose—the FBI can create such a tracking system with existing resources. And this is how Federal agencies should be spending the taxpayers' money: on protecting them and their children, and making their communities safer, less threatening places to live.

One of the ultimate responsibilities of Government is the protection of its citizens—especially its youngest and most vulnerable. This measure does not seek to impose additional punishment on sex offenders—but it is aimed at providing society at large with an element of self-defense that it does not enjoy now.

TAX DAY

Mr. PELL. Mr. President, Tax Day has come and gone, and I would wager that few outside of Washington, DC, marked its passing because they were so absorbed in the last minute preparation and filing of income tax returns. Most paid scant heed to this congressionally created day of moment, which, in my view, panders irresponsibly to popular aversion to taxation.

It is far more responsible, in my view, to emphasize the positive aspects of public finance. Most Federal taxes flow right back to Americans in benefits and services. Federal taxes here includes both Federal income taxes and Federal payroll or Social Security taxes. Payroll taxes are used to pay Social Security and Medicare benefits to our elderly and disabled. Income taxes are used to fund the operations of our Government which include the provision of student loans for education, maintenance of our national parks and museums, low-interest mortgage loans for first-time home buyers, veterans benefits, unemployment compensation, and our military defense, among other things.

I am advised that Federal entitlements—benefits citizens are entitled to collect if they meet certain demographic or income definition—reach 49 percent of U.S. households, including 39 percent of families with children and 98 percent of the elderly.

Moreover, in my view, Americans are not overtaxes in comparison with other nations. The highest statutory marginal individual income tax rate in the United States, 39.6 percent, is relatively low by international standards. France, Germany, Italy, and Japan have tax rates that are substantially higher, reaching 56.8 percent. By another measure, using total tax receipts as a percent of gross domestic product [GDP], the United States has an average tax rate of 31.5 percent. The United Kingdom, Italy, Germany, Canada, and France are all significantly higher, with several having average tax rates in excess of 40 percent of GDP.

Of course, constant restraint and diligence must be exercised to make sure that waste, fraud, and abuse are avoided at all times. But overall, I believe that our Federal Government has had, and continues to have, a positive impact on the lives of most Americans. In the words of Justice Holmes, ''taxes are what we pay for civilized society.'' In the end, we get what we pay for.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES FOR CALENDAR YEAR 1995—MESSAGE FROM THE PRESIDENT—PM 138

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

I am pleased to present to you the 1995 Annual Report of the National Endowment for the Humanities (NEH). For 30 years, this Federal agency has given Americans great opportunities to explore and share with each other our country's vibrant and diverse cultural heritage. Its work supports an impressive array of humanities projects.

These projects have mined every corner of our tradition, unearthing all the distinct and different voices, emotions, and ideas that together make up what is a uniquely American culture. In 1995, they ranged from an award-winning television documentary on President Franklin Delano Roosevelt, the radio production Wade in the Water, to preservation projects that will rescue 750,000 important books from obscurity and archive small community newspapers from every State in the Union. Pandora's Box, a traveling museum exhibit of women and myth in classical Greece, drew thousands of people.

The humanities have long helped Americans bridge differences, learn to appreciate one another, shore up the foundations of our democracy, and build strong and vital institutions across our country. At a time when our society faces new and profound challenges, when so many Americans feel insecure in the face of change, the presence and accessibility of the humanities in all our lives can be a powerful source of our renewal and our unity as we move forward into the 21st century.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 17, 1996*.

REPORT ON ALASKA'S MINERAL RESOURCES FOR CALENDAR YEAR 1995—MESSAGE FROM THE PRESIDENT—PM 139

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources.

To the Congress of the United States:

I transmit herewith the 1995 Annual Report on Alaska's Mineral Resources, as required by section 1011 of the Alaska National Interest Lands Conservation Act (Public Law 96–487; 16 U.S.C. 3151). This report contains pertinent public information relating to minerals in Alaska gathered by the U.S. Geological Survey, the U.S. Bureau of Mines, and other Federal agencies.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 17, 1996*.

MESSAGES FROM THE HOUSE

At 1:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2337. An act to amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections.

H.R. 2501. An act to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes.

H.R. 2630. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois.

H.R. 2695. An act to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania.

H.R. 2773. An act to extend the deadline under the Federal Power Act applicable to the construction of 2 hydroelectric projects in North Carolina, and for other purposes.

H.R. 2816. An act to reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes.

H.R. 2869. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky.

H.R. 3034. An act to amend the Indian Self-Determination and Education Assistance Act to extend for two months the authority for promulgating regulations under the Act.

H.R. 3074. An act to amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone.

H.R. 3121. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for the purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 3074. An act to amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone; to the Committee on Finance.

H.R. 3121. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following measures were read the first and second times by unanimous consent and placed on the calendar:

H.R. 2501. An act to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes.

H.R. 2630. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois.

H.R. 2695. An act to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania.

H.R. 2773. An act to A bill to extend the deadline under the Federal Power Act applicable to the construction of 2 hydroelectric projects in North Carolina, and for other purposes.

H.R. 2816. An act to reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes.

H.R. 2869. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky.

The following bill was ordered placed on the calendar:

H.R. 2337. An act to amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2219. A communication from the Secretary of Energy transmitting, pursuant to law, the annual report for the Strategic Petroleum Reserve for 1995; to the Committee on Energy and Natural Resources.

EC–2220. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–2221. A communication from the Deputy Chief (Programs and Legislation Division), Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a notice relative to the Range Mobile Target Support function; to the Committee on Armed Services.

EC–2222. A communication from the Deputy Chief (Programs and Legislation Division), Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a notice relative to depot maintenance activities; to the Committee on Armed Services.

EC–2223. A communication from the Secretary of the Navy transmitting, pursuant to law, a report relative to a major defense acquisition program; to the Committee on Armed Services.

EC–2224. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, the notice of an intention to offer a transfer by sale; to the Committee on Armed Services.

EC–2225. A communication from the Assistant Secretary of the Navy (Installations and Environment) transmitting, pursuant to law, the report of a study relative to outsourcing; to the Committee on Armed Services.

EC–2226. A communication from the Secretary of the Army transmitting, pursuant to law, a report relative to the average unit procurement cost for a program; to the Committee on Armed Services.

EC–2227. A communication from the Assistant Secretary of the Army (Installations, Logistics and Environment) transmitting, pursuant to law, a notice relative to Fort Polk, LA; to the Committee on Armed Services.

EC–2228. A communication from the Secretary of Energy transmitting, pursuant to law, the report of DOE activities relating to the Defense Nuclear Facilities Safety Board for calendar year 1995; to the Committee on Armed Services.

EC–2229. A communication from the Deputy Secretary of Defense transmitting, pursuant to law, a report relative to outsourcing; to the Committee on Armed Services.

EC–2230. A communication from the Secretary of Defense, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Armed Services.

EC–2231. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled ''The National Defense Authorization Act for Fiscal Year 1997''; to the Committee on Armed Services.

EC–2232. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the (entire) National Water Quality Inventory Report for calendar year 1994; to the Committee on Environment and Public Works.

EC–2233. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report relative to the Office of Small and Disadvantaged Business Utilization (OSDBU) and women and minority business enterprises; to the Committee on Environment and Public Works.

EC–2234. A communication from the Secretary of the Nuclear Regulatory Commission, transmitting, pursuant to law, a major rule to establish license and annual fees under the Omnibus Budget Reconciliation Act of 1990; to the Committee on Environment and Public Works.

EC–2235. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the financial statements for fiscal years 1994 and 1995; to the Committee on Armed Services.

EC–2236. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on nonlethal weapons; to the Committee on Armed Services.

EC–2237. A communication from the Assistant General Counsel of the U.S. Information Agency, transmitting, pursuant to law, a report relative to an exchange visitor's program duration; to the Committee on Foreign Relations.

EC–2238. A communication from the President and Chief Executive Officer of the Overseas Private Investment Corporation, transmitting, a draft of proposed legislation entitled ''The Overseas Private Investment Corporation Amendments Act of 1996''; to the Committee on Foreign Relations.

EC–2239. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to international financial institutions; to the Committee on Foreign Relations.

EC–2240. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to the United Nations Civilian Police operation in Eastern Slavonia; to the Committee on Foreign Relations.

EC–2241. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of contributions to international organizations for fiscal year 1995; to the Committee on Foreign Relations.

EC–2242. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–2243. A communication from the Attorney General, transmitting, pursuant to law, the annual report of the Federal Prison Industries for calendar year 1995; to the Committee on the Judiciary.

EC–2244. A communication from the Director of the Federal Judicial Center, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on the Judiciary.

EC–2245. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2246. A communication from the Postmaster General, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2247. A communication from the Director of the Judicial Conference of the United States, transmitting, a draft of proposed legislation to provide for the conversion of existing temporary U.S. District Judgeships to permanent status, and for other purposes; to the Committee on the Judiciary.

EC–2248. A communication from the Director of the Office of Governmental Ethics, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2249. A communication from the Executive Director of Government Affairs of the Non Commissioned Officers Association of the U.S.A., transmitting, pursuant to law, the report of financial statements for calendar years 1994 and 1995; to the Committee on the Judiciary.

EC–2250. A communication from the Commissioner of Social Security, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2251. A communication from the Director of Operations, Department of the Interior, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2252. A communication from the Acting Administrator, General Services Administration, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2253. A communication from the Assistant Secretary of Education (Civil Rights), transmitting, pursuant to law, the annual report for fiscal year 1995; to the Committee on Labor and Human Resources.

EC–2254. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the Public Housing Primary Care program; to the Committee on Labor and Human Resources.

EC–2255. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the fiscal year 1995 report relative to the Arts and Artifacts Indemnity Program; to the Committee on Labor and Human Resources.

EC–2256. A communication from the President of the U.S. Institute of Peace, transmitting, pursuant to law, the report of financial statements for fiscal year 1995; to the Committee on Labor and Human Resources.

EC–2257. A communication from the Director of the Executive Office of the President, Office of Management and Budget, transmitting, a draft of proposed legislation entitled ''The Electronic Depository Library Act of 1996''; to the Committee on Rules and Administration.

EC–2258. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of a proposed form; to the Committee on Rules and Administration.

EC–2259. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of legislative recommendations for calendar year 1996; to the Committee on Rules and Administration.

EC–2260. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, a report relative to an evaluation of health status; to the Committee on Veterans' Affairs.

EC–2261. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, a report relative to equitable relief for calendar year 1995; to the Committee on Veterans' Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources:

C.E. Abramson, of Montana, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2000.

Robert B. Rogers, of Missouri, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of three years. (New Position)

Elmer B. Staats, of the District of Columbia, to be a Member of the Board of Trustees of the Harry S. Truman Scholarship Foundation for a term expiring December 10, 2001. (Reappointment)

David A. Ucko, of Missouri, to be a Member of the National Museum Services Board for a term expiring December 6, 1999.

Alberta Sebolt George, of Massachusetts, to be a Member of the National Museum Services Board for a term expiring December 6, 1998.

Ronnie Feuerstein Heyman, of New York, to be a Member of the National Council on the Arts for a term expiring September 3, 2000.

Terry Evans, of Kansas, to be a Member of the National Council on the Arts for a term expiring September 3, 2000.

Audrey Tayse Haynes, of Kentucky, to be a Member of the National Institute for Literacy Advisory Board for a term expiring October 13, 1998.

Mary Dodd Greene, of Texas, to be a Member of the National Institute for Literacy Advisory Board for a term expiring October 12, 1998.

Mark Edwin Emblidge, of Virginia, to be a Member of the National Institute for Literacy Advisory Board for a term expiring September 22, 1998.

Toni G. Fay, of New Jersey, to be a Member of the National Institute Literacy Advisory Board for a term expiring October 12, 1998.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated.

By Mr. LEVIN:

S. 1679. A bill to clarify the application of Federal preemption of State and local laws, and for other purposes; to the Committee on Governmental Affairs.

By Mr. COVERDELL:

S. 1680. A bill to amend title 18 of the United States Code to permit the judicial deportation of criminal aliens; to the Committee on the Judiciary.

By Mr. SPECTER (for himself and Mrs. FEINSTEIN):

S. 1681. A bill to establish a commission to improve the policies and programs of the Federal Government for combatting the proliferation of weapons of mass destruction, and for other purposes; to the Select Committee on Intelligence.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE:

S. Res. 246. A resolution to authorize the use of additional funds for salaries and expenses of the Special Committee to Investigate Whitewater Development Corporation and Related Matters, and for other purposes; considered and agreed to.

By Mr. SPECTER (for himself and Ms. MIKULSKI):

S. Res. 247. A resolution expressing the sense of the Senate regarding a resolution of the dispute between Greece and Turkey over sovereignty to the islet in the Aegean Sea called Imia by Greece and Kardak by Turkey; to the Committee on Foreign Relations.

By Ms. MIKULSKI (for herself, Mr. AKAKA, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BUMPERS, Mr. BYRD, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. DODD, Mr. DOLE, Mr. DORGAN, Mrs. FEINSTEIN, Mr. GLENN, Mr. GRAHAM, Mr. HARKIN, Mr. HATFIELD, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mr. KENNEDY, Mr. KERREY, Mr. LEVIN, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SIMON, Mr. SIMPSON, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, and Mr. WELLSTONE):

S. Con. Res. 52. A concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress; to the Committee on Labor and Human Resources.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. LEVIN:

S. 1679. A bill to clarify the application of Federal preemption of State and local laws, and for other purposes; to the Committee on Governmental Affairs.

THE PREEMPTION CLARIFICATION AND INFORMATION ACT OF 1996

• Mr. LEVIN. Mr. President, today I am introducing the Preemption and Clarification Act of 1996. It would require an explicit statement of Federal preemption in Federal legislation in order for such preemption to occur unless there exists a direct conflict between the Federal law and a State or local law which cannot be reconciled. Enactment of this bill would close the back door of implied Federal preemption and put the responsibility for determining whether or not State or local governments should be preempted back in Congress where it belongs.

State and local officials have become increasingly concerned with the number of instances in which State and local laws have been preempted by Federal law—not because Congress has done so explicitly, but because the courts have implied such preemption. Since 1789, Congress has enacted approximately 350 laws specifically preempting State and local authority. Half of these laws have been enacted in the last 20 years. These figures, however, do not touch upon the extensive Federal preemption of State and local authority which has occurred as a result of judicial interpretation of congressional intent, when Congress' intention to preempt has not been explicitly stated in law. When Congress is unclear about its intent to preempt, the courts must then decide whether or not preemption was intended and, if so, to what extent.

Article VI of the Constitution, the supremacy clause, states that Federal laws made pursuant to the Constitution ''shall be the supreme law of the land.'' In its most basic sense, this clause means that a State law is negated or preempted when it is in conflict with a constitutionally enacted Federal law. A significant body of case law has been developed to arrive at

standards by which to judge whether or not Congress intended to preempt State or local authority—standards which are subjective and have not resulted in a consistent and predictable doctrine in resolving preemption questions.

If we in Congress want Federal law to prevail, we should be clear about that. If we want the States to have discretion to go beyond Federal requirements, we should be clear about that. If, for example, we set a floor in a Federal statute, but are silent on actions which meet but then go beyond the Federal requirement, State and local governments should be able to act as they deem appropriate. State and local governments should not have to wait to see what they can and cannot do. Our bill would allow tougher State and local laws given congressional silence.

Our legislation also requires the Congressional Research Service, at the end of each Congress, to compile a report on the number of statutory and judicially interpreted preemptions. This will constitute the first time such a complete report has been done, and the information will be valuable to the debate regarding the appropriate use of preemption to reach Federal goals.

I introduced this bill in the 102d Congress with Senator David Durenburger. A form of the bill was included in the unfunded mandates law we passed in the spring of last year. That provision, now law, requires that when a committee of the Senate or House reports a bill, the report accompanying the bill is required to contain an explicit statement of the extent to which the bill is intended to preempt any State, local or tribal law and if so, an explanation of the effect of such preemption. That provision of the unfunded mandates law is an attempt to get congressional committees to address the issue of preemption before legislation is reported to the floor of the House or Senate. In reviewing several bills that are now on the Senate Calendar awaiting Senate action, I was disappointed to find that none of the ones I reviewed met the requirements of this provision. We can and should do better.

This bill, unlike the provision in the unfunded mandates law where silence in the report leaves the issue unresolved, this bill establishes a principle for the courts to follow in determining a preemption case where the bill is silent on the matter. This bill tells the court that if the statement of intent to preempt is not in the legislation then the court is not authorized to read it into the statute—unless there is a direct conflict between Federal and State law. If legislation is silent, there is no preemption.

Earlier this year the Governmental Affairs Committee held a hearing on a bill entitled the ''Tenth Amendment Enforcement Act of 1996.'' It contains a section on judicial construction which is virtually the same as that contained in this bill and the bill I introduced in the 102d Congress. The tenth amendment bill, however, has other provisions that are troublesome. I am introducing my bill today in the hope that we can enact this provision into law, this year, and leave the more troublesome features of the Tenth Amendment Enforcement Act of 1996 for another day.

Mr. President, preemption clarification legislation has been endorsed by the National Conference of State Legislators, the Intergovernmental Affairs Committee of the Council of State Governments, the U.S. Conference of Mayors, and the Appellate Judges Conference of the American Bar Association.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Preemption Clarification and Information Act of 1996''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the United States Constitution created a strong Federal system, reserving to the States all powers not expressly delegated to the Federal Government;

(2) on numerous occasions, the Congress has enacted statutes that explicitly preempt State and local government powers and describe the scope of the preemption;

(3) in addition to statutes that explicitly preempt State and local government powers, many other statutes that lack an explicit statement by Congress of its intent to preempt and a clear description of the scope of the preemption have been construed by the courts and Federal agencies to preempt State and local government powers; and

(4) without an explicit statement of Congress' intent to preempt State and local government powers and a clear description of the scope of preemption, preemptive statutes—

(A) provide too little guidance and leave too much discretion to Federal agencies which are required to promulgate and enforce regulations pursuant to statutes;

(B) create too great an uncertainty for State and local governments; and

(C) leave the presence or scope of preemption to be litigated and determined by the Federal judiciary, producing results sometimes contrary to or beyond the intent of Congress.

SEC. 3. PURPOSE.

The purposes of this Act are to—

(1) promote and preserve the integrity and effectiveness of the Federal system;

(2) set forth principles governing the interpretation of congressional intent regarding preemption of State and local government powers by Federal laws and regulations; and

(3) establish an information collection system designed to monitor the incidence of Federal statutory and regulatory preemption.

Sec. 4. DEFINITIONS.

As used in this Act, the term—

(1) ''local government'' means a county, city, town, borough, township, village, school district, special district, or other political subdivision of a State;

(2) ''State'' means a State of the United States and an agency or instrumentality of a State, but does not include a local government of a State; and

(3) ''State and local government powers'' means powers reserved under the ninth and tenth amendments of the United States Constitution to States or delegated to local governments by States.

SEC. 5. RULE OF CONSTRUCTION.

No statute, or rule promulgated under such statute, shall preempt, in whole or in part, any State or local government law, ordinance, or regulation, unless the statute explicitly states that such preemption is intended or unless there is a direct conflict between such statute and a State or local law, ordinance, or regulation so the two cannot be reconciled or consistently stand together.

SEC. 6. ANNUAL REPORT ON STATUTORY PREEMPTION.

(a) REPORT.—Within 90 days after each Congress adjourns sine die, the Congressional Research Service shall prepare and make available to the public a report on the extent of Federal statutory preemption of State and local government powers enacted into law during the preceding Congress or adopted through judicial interpretation of Federal statutes.

(b) CONTENTS.—The report shall contain—

(1) a cumulative list of the Federal statutes preempting, in whole or in part, State and local government powers;

(2) a summary of Federal legislation enacted during the previous Congress preempting, in whole or in part, State and local government powers;

(3) an overview of recent court cases addressing Federal preemption issues; and

(4) other information the Director of the Congressional Research Service determines appropriate.

(c) TRANSMITTAL.—Copies of the report shall be sent to the President and the chairman of the appropriate committees in the Senate and House of Representatives.

SEC. 7. EFFECTIVE DATE.

This Act shall take effect on January 1, 1997. The requirements of section 5 shall apply only to statutes enacted or final regulations which become effective on or after January 1, 1997.●

By Mr. SPECTER (for himself and Mrs. FEINSTEIN):

S. 1681. A bill to establish a commission to improve the policies and programs of the Federal Government for combating the proliferation of weapons of mass destruction, and for other purposes; to the Select Committee on Intelligence.

COMBATING PROLIFERATION OF WEAPONS OF MASS DESTRUCTION ACT OF 1996

Mr. SPECTER. Mr. President, it is well known that there is an enormous international threat posed by weapons of mass destruction.

Testimony which was recently heard by the Senate Intelligence Committee, which I chair, disclosed that some 25 nations have weapons of mass destruction including nuclear weapons, biological weapons, and chemical weapons.

In testimony offered by John Deutch in 1994, when he was Deputy Secretary of Defense, he pointed out that ''If North Koreans build the Taepo Dong II missile, Alaska and parts of Hawaii would be potentially at risk.'' I think it is not well known that parts of the

United States are potentially at risk from long-range missiles.

We have seen the development of biological weapons by Saddam Hussein which was confirmed last August by his son-in-law following his defection. We see the building of chemical weapons by Qadhafi noted recently by Secretary of Defense Perry with his statement that we could not tolerate the completion of those weapons of mass destruction. We have seen China sell missiles to Pakistan. We have seen the tremendous tension building up on the subcontinent with both Pakistan and India engaging in a missile race.

In the United States, Mr. President, while we have noted the enormous problems on weapons of mass destruction, we have seen a governmental structure which is extraordinarily complicated and really unable to deal in a coordinated method with this tremendous problem.

This chart depicts the problems in the United States of the numerous agencies which have jurisdiction in one way or another over weapons of mass destruction. This chart contains boxes depicting 96 different entities which have authority of one sort or another over this field.

We have some authority vested in the National Security Council. We have some authority vested in the Department of Defense, some authority vested in the Department of State, some in the Department of Justice, some in the Department of Energy, some with the Director of Central Intelligence, others even with the Secretary of Health and Human Services, still further authority in the Secretary of the Treasury and authority in the Secretary of Commerce.

This is on its face an enormously unwieldy Federal bureaucracy, and that is our response to the problem of weapons of mass destruction. And as shown by this chart it is obviously a bureaucracy which cannot function efficiently.

In 1993, when I studied the Clinton health program, I asked an assistant to make a listing of all the agencies, boards and commissions, and my assistant made a chart instead which depicted an enormous bureaucracy, which was influential in helping to defeat that health care program. If a picture is worth 1,000 words, a chart may be worth 1,000 pictures, Mr. President, and I think that this chart shows the urgency of some reorganization of the Federal Government to deal with this enormous problem.

The study of the congressionally mandated Commission on Roles and Missions of the Armed Forces pointed out that ''Despite the declared national emergency, there is no evidence that combating proliferation receives continuous high level attention.'' The study's conclusion is worth noting and emphasizing:

Mechanisms for effectively integrating the combating proliferation activities of all departments and agencies are lacking. Given the complexity of the tasks involved, the need for marshaling resources from many agencies, and the necessarily protracted nature of these efforts, the failure to assign clear and empowered leadership has impeded the United States effort.

That conclusion is obvious in taking a look at the enormous complicated bureaucracy in the United States assigned to deal with this problem.

In looking at the solution, I have considered a number of alternatives. One option is the creation of ''czar,'' such as the drug czar empowered to coordinate activities against drugs in United States. I have considered the creation of a high-level position on the National Security Council staff. I have considered the option of having a second Deputy Secretary of Defense. I have also considered the option of a new Assistant Secretary of Defense [ASD], like the ASD for special operations and low-intensity conflict created in the late 1980's as a result of legislation introduced by Senator COHEN and Senator NUNN.

I have decided instead that this matter ought to be studied by a high level special commission like the Aspin-Brown Commission, which recently filed a comprehensive report to reorganize the U.S. intelligence community. This is a matter which can be most effectively dealt with by experts on a commission. Rather than the introduction of legislation and the holding of hearings, the commission would have a much broader purview and that is the legislation which I am introducing today.

Mr. President, I ask unanimous consent that my legislation, together with a chart depicting this complicated bureaucracy which now seeks to deal with this problem of great national and international importance, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1681

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Combatting Proliferation of Weapons of Mass Destruction Act of 1996''.

TITLE I—ASSESSMENT OF PROGRAMS AND POLICIES FOR COMBATTING PROLIFERATION

SEC. 101. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on Programs and Policies for Combatting the Proliferation of Weapons of Mass Destruction (hereafter in this Act referred to as the ''Commission'').

(b) MEMBERSHIP.—The Commission shall be composed of 12 members of whom—

(1) 6 shall be appointed by the President;

(2) 3 shall be appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate; and

(3) 3 shall be appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(f) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

(g) MEETINGS.—The Commission shall meet at the call of the Chairman.

SEC. 102. DUTIES OF COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall carry out a thorough study of the organization, policies, and programs of the U.S. Government related to combatting the proliferation of weapons of mass destruction.

(2) SPECIFIC REQUIREMENTS.—In carrying out the study, the Commission shall—

(A) assess the effectiveness of the policies and programs of all departments and agencies of the Federal Government including the intelligence community meeting the national security interests of the United States with respect to the proliferation of such weapons; and

(B) assess the current structure and organization of all Federal agencies and the cooperation between elements of the intelligence community and the intelligence-gathering services of foreign governments in addressing issues relating to the proliferation of such weapons.

(b) RECOMMENDATIONS.—In conducting the study, the Commission shall develop recommendations on means of improving the effectiveness of the organization, policies, programs of the intelligence community, and the programs and policies of the other departments and agencies of the Federal Government, in meeting the national security interests of the United States with respect to the proliferation of weapons of mass destruction.

(c) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress a report containing a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

SEC. 103. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 104. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government

shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 105. TERMINATION OF COMMISSION.

The Commission shall terminate 60 days after the date on which the Commission submits its report under section 102(c).

SEC. 106. DEFINITION.

For purposes of this title, the term ''intelligence community'' shall have the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for the Commission for fiscal year 1996 such sums as may be necessary for the Commission to carry out its duties under this title.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until the termination of the Commission under section 105.

TITLE II—OTHER MATTERS

SEC. 201. REPORTS ON ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS.

(a) REPORTS.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Director of Central Intelligence shall submit to Congress a report on—

(1) the acquisition by foreign countries during the preceding 6 months of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions; and

(2) trends in the acquisition of such technology by such countries.

(b) FORM OF REPORTS.—The reports submitted under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

[The chart referred to by Senator SPECTER was not reproducible in the RECORD.]

ADDITIONAL COSPONSORS

S. 358

At the request of Mr. HEFLIN, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 358, a bill to amend the Internal Revenue Code of 1986 to provide for an excise tax exemption for certain emergency medical transportation by air ambulance.

S. 704

At the request of Mr. SIMON, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 968

At the request of Mr. MCCONNELL, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 990

At the request of Mr. WYDEN, his name was added as a cosponsor of S. 990, a bill to expand the availability of qualified organizations for frail elderly community projects (Program of All-inclusive Care for the Elderly (PACE)), to allow such organizations, following a trial period, to become eligible to be providers under applicable titles of the Social Security Act, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the names of the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1150

At the request of Mr. SANTORUM, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 1150, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Marshall plan and George Catlett Marshall.

S. 1491

At the request of Mr. GRAMS, the names of the Senator from Ohio [Mr. DEWINE], the Senator from Missouri [Mr. BOND], the Senator from New Hampshire [Mr. SMITH], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 1491, a bill to reform antimicrobial pesticide registration, and for other purposes.

S. 1613

At the request of Mr. COCHRAN, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1613, a bill to amend the National School Lunch Act to provide greater flexibility to schools to meet the Dietary Guidelines for Americans under the school lunch and school breakfast programs, and for other purposes.

S. 1624

At the request of Mr. HATCH, the names of the Senator from Ohio [Mr. GLENN] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1624, a bill to reauthorize the Hate Crime Statistics Act, and for other purposes.

S. 1635

At the request of Mr. DOLE, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1635, a bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes.

S. 1641

At the request of Mr. GRAMS, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1641, a bill to repeal the consent of Congress to the Northeast Interstate Dairy Compact, and for other purposes.

S. 1674

At the request of Mr. GRASSLEY, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1674, a bill to amend the Internal Revenue Code of 1986 to expand the applicability of the first-time farmer exception.

S. 1675

At the request of Mr. GRAMM, the names of the Senator from Arizona [Mr. KYL] and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of S. 1675, a bill to provide for the nationwide tracking of convicted sexual predators, and for other purposes.

SENATE CONCURRENT RESOLUTION 42

At the request of Mrs. KASSEBAUM, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Concurrent Resolution 42, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. DOLE, the name of the Senator from Massachusetts

[Mr. KERRY] was added as a cosponsor of Senate Concurrent Resolution 50, a concurrent resolution concerning human and political rights and in support of a resolution of the crisis in Kosova.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE CONCURRENT RESOLUTION 52—TO RECOGNIZE AND ENCOURAGE THE CONVENING OF A NATIONAL SILVER-HAIRED CONGRESS

Ms. MIKULSKI (for herself, Mr. AKAKA, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BUMPERS, Mr. BYRD, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. DODD, Mr. DOLE, Mr. DORGAN, Mrs. FEINSTEIN, Mr. GLENN, Mr. GRAHAM, Mr. HARKIN, Mr. HATFIELD, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mr. KENNEDY, Mr. KERREY, Mr. LEVIN, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SIMON, Mr. SIMPSON, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, and Mr. WELLSTONE) submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 52

Whereas many States have encouraged and facilitated the creation of senior citizen legislative and advocacy bodies;

Whereas in creating such bodies such States have provided to many older Americans the opportunity to express concerns, promote appropriate interests, and advance the common good by influencing the legislation and actions of State government; and

Whereas a National Silver-Haired Congress, with representatives from each State, would provide a national forum for a nonpartisan evaluation of grassroots solutions to concerns shared by an increasing number of older Americans: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the congress hereby recognizes and encourages the convening of an annual National Silver-Haired Congress in the District of Columbia.

● Ms. MIKULSKI. Mr. President, I submit a concurrent resolution to recognize and encourage the convening of a national silver-haired congress. This concurrent resolution passed the Senate and the House of Representatives in 1994. Unfortunately, since each concurrent resolution was not voted on by the other Chamber, neither was technically adopted.

That is why I am resubmitting this legislation—I think it is important, and I want both Houses to formally endorse this plan. As ranking member of the Aging Subcommittee, I am joined by Senators COHEN and PRYOR, chair and ranking member of the Special Subcommittee on Aging, and many more of my colleagues on both sides of the aisle in sponsoring this important piece of legislation.

What is a national silver-haired congress? Well, it is the vision of a truly inspirational group of seniors. Beginning back in 1973, a group of Missouri seniors got together and decided to get involved. They formed a silver-haired legislature. They modeled their legislature after the State's and took up pieces of legislation that affected seniors.

That was 1973. Today, almost half the States have silver-haired legislatures. These mock legislatures take bills through the entire legislative process and present their bills that they pass to their State legislators. These recommendations are taken very seriously. The silver-haired legislatures have helped in the passage of many programs: from consumer protections and crime prevention to health care, housing, and long-term care.

I am submitting today a concurrent resolution to create the first national silver-haired congress. Based on the experience of the silver-haired legislatures in the States, this silver-haired congress would provide a national forum for aging issues—a forum patterned after the U.S. Congress. It will be completely staffed by older Americans, and serve to address the broad range of seniors issues. Like us, this silver-haired congress would be comprised of 100 senators and 435 representatives. But unlike us, all the members will serve without pay.

The population of older Americans is growing at a faster rate than any other age group. As this elderly population grows, it is more important than ever to encourage the input of seniors in our political process. At no cost whatsoever to the American public, a national silver-haired congress will provide a national forum for issues of concern to older Americans. The input and counsel that a forum like this will provide to the U.S. Congress is invaluable.

It is with great enthusiasm and excitement that I submit this concurrent resolution and ask my colleagues to support this wonderful proposal for a national silver-haired congress.●

SENATE RESOLUTION 246—RELATIVE TO THE SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT CORPORATION AND RELATED MATTERS

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 246

SECTION 1. FUNDS FOR SALARIES AND EXPENSES OF SPECIAL COMMITTEE.

There shall be made available from the contingent fund of the Senate out of the Account for Expenses for Inquiries and Investigations, for use not later than June 17, 1996, by the Special Committee to Investigate Whitewater Development Corporation and Related Matters (hereafter in this Resolution referred to as the ''special committee''), established by Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995) to carry out the investigation, study and hearings authorized by that Senate Resolution—

(1) a sum equal to not more than $450,000.

(A) for payment of salaries and other expenses of the special committee; and

(B) not more than $350,000 of which may be used by the special committee for the procurement of the services of individual consultants or organizations thereof; and

(2) such additional sums as may be necessary for agency contributions related to the compensation of employees of the special committee.

SEC. 2. TERMINATION OF THE SPECIAL COMMITTEE.

(a) HEARINGS.—Not later than June 14, 1996, the special committee shall complete the investigation, study, and hearings authorized by Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995).

(b) REPORT.—Not later than June 17, 1996, the special committee shall submit to the Senate the final public report required by section 9(b) of Senate Resolution 120, 104th Congress, agreed to May 17, 1995 (as amended by Senate Resolution 153, 104th Congress, agreed to July 17, 1995) on the results of the investigation, study, and hearings conducted pursuant to that Resolution.

SENATE RESOLUTION 247—RELATIVE TO IMIA ISLET

Mr. SPECTER (for himself and Ms. MIKULSKI) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 247

Whereas Greece and Turkey are engaged in a dispute over sovereignty to an islet in the Aegean Sea called Imia by Greece and Kardak by Turkey:

Whereas the islet is a dependent of the Island of Calimnos, an island in the Dodecanese region of the Aegean Sea:

Whereas in Article 15 of the Treaty of Peace with Turkey, and other Instruments, signed at Lausanne on July 24, 1923, Turkey renounced in favor of Italy all right and title of Turkey over 12 islands in the Dodecanese region that were occupied at the time of the Treaty by Italy, including the Island of Calimnos, and the islets dependent on such islands;

Whereas the Convention Between Italy and Turkey for the Delimitation of the Territorial Waters Between the Coasts of Anatolia and the Island of Castellorizio, signed at Ankara on January 4, 1932, established the rights of Italy and Turkey in coastal islands, waters, and rocks in the Aegean Sea and delimited a maritime frontier between the two countries:

Whereas a Protocol to that Convention established a border between Italy and Turkey which placed the islet under the control of Italy;

Whereas in Article 14 of the 1947 Treaty of Peace with Italy, Italy ceded to Greece the Island of Calimnos and adjacent islets;

Whereas the Eastern Mediterranean region, in which the Aegean Sea is located, is a region of vital strategic importance to the United States;

Whereas both Greece and Turkey are members of the North Atlantic Treaty Organization and allies of the United States;

Whereas it is in the interest of the United States and other nations to have the dispute resolved peacefully; and

Whereas the International Court of Justice in The Hague was established to promote the peaceful resolution of international disputes in conformity with international law: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Government of Greece and the Government of Turkey should—

(1) submit to the International Court of Justice in The Hague the dispute of such governments over sovereignty to the islet in the Aegean Sea called Imia by Greece and Kardak by Turkey; and

(2) agree to be bound by the decision of the Court with respect to the dispute.

Mr. SPECTER. Mr. President, for thousands of years, the Aegean Sea, and the Eastern Mediterranean as a whole, has been a critical geopolitical region. I believe it is in the national interest of the United States to have the countries in this region resolve their disputes peacefully. As former Assistant Secretary of State Richard Holbrook recently noted, ''you cannot have the southern flank of NATO in constant tension without having strategic instability, which will ultimately wreck NATO.''

Unfortunately, Greece and Turkey—both members of NATO, and both allies of the United States—have been locked in bitter conflict for many hundreds of years. The case of Cyprus is a tragic recent example. I am concerned that in such a climate of hostility, relatively minor disputes could erupt into major conflict. It could be a war which would spread to that area.

The most recent manifestation of tension between Greece and Turkey centers on Imia and other islets in the Aegean. The sovereignty questions are quite complex, and involve treaties and other agreements signed after World War I and World War II, including the Paris Peace Treaty of 1947, the Italo-Turkish Agreement of 1932, and the 1923 Lausanne Peace Treaty. Simply put, each nation claims the islet of Imia, called Kardak by Turkey, as part of its national territory.

However, I believe that this dispute should be resolved in the International Court of Justice [ICJ] at The Hague. The ICJ was established to promote the peaceful resolution of international disputes in conformity with international law. The dispute over the islet of Imia is, in my judgment, an ideal candidate for adjudication by The Hague.

It is for that reason I am submitting this sense of the Senate resolution, which calls upon Greece and Turkey to submit their dispute to the ICJ, and agree to be bound by the decision of the court. The Eastern Mediterranean is a region of critical importance. I believe that it is essential to resolve conflict peacefully, and to work with the countries of the region to resolve key issues in a way that is consistent with the rule of law. This resolution, in my judgment, is a critical first step in ensuring that relatively minor conflicts do not escalate into major ones.

Mr. President, I will read the resolve clause of the resolution:

That it is the sense of the Senate that the Government of Greece and the Government of Turkey should—

(1) submit to the International Court of Justice in The Hague the dispute of such governments over sovereignty to the islet in the Aegean Sea called Imia by Greece and Kardak by Turkey; and

(2) agree to be bound by the decision of the Court with respect to that dispute.

AMENDMENTS SUBMITTED

THE HEALTH INSURANCE REFORM ACT OF 1996

THOMAS AMENDMENT NO. 3673

(Ordered to lie on the table.)

Mr. THOMAS submitted an amendment intended to be proposed by him to the bill (S. 1028) to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes; as follows:

At the end of the bill, insert the following new section:

SEC. . PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.

(a) IN GENERAL.—Section 1876(a) of the Social Security Act (42 U.S.C. 1395mm(a)) is amended to read as follows:

''(a)(1)(A) The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than August 1 before the calendar year concerned—

''(i) a per capita rate of payment for individuals who are enrolled under this section with an eligible organization which has entered into a risk-sharing contract and who are entitled to benefits under part A and enrolled under part B, and

''(ii) a per capita rate of payment for individuals who are so enrolled with such an organization and who are enrolled under part B only.

For purposes of this section, the term 'risk-sharing contract' means a contract entered into under subsection (g) and the term 'reasonable cost reimbursement contract' means a contract entered into under subsection (h).

''(B) The annual per capita rate of payment for each medicare payment area (as defined in paragraph (5)) shall be equal to the adjusted capitation rate (as defined in paragraph (4)), adjusted by the Secretary for—

''(i) individuals who are enrolled under this section with an eligible organization which has entered into a risk-sharing contract and who are enrolled under part B only; and

''(ii) such risk factors as age, disability status, gender, institutional status, and such other factors as the Secretary determines to be appropriate so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such factors, if such changes will improve the determination of actuarial equivalence.

''(C) In the case of an eligible organization with a risk-sharing contract, the Secretary shall make monthly payments in advance and in accordance with the rate determined under subparagraph (B) and except as provided in subsection (g)(2), to the organization for each individual enrolled with the organization under this section.

''(D) The Secretary shall establish a separate rate of payment to an eligible organization with respect to any individual determined to have end-stage renal disease and enrolled with the organization. Such rate of payment shall be actuarially equivalent to rates paid to other enrollees in the payment area (or such other area as specified by the Secretary).

''(E)(i) The amount of payment under this paragraph may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

''(ii)(I) Subject to subclause (II), the Secretary may make retroactive adjustments under clause (i) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with an eligible organization (which has a risk-sharing contract under this section) under a health benefit plan operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the plan under this section, except that for purposes of making such retroactive adjustments under this clause, such period may not exceed 90 days.

''(II) No adjustment may be made under subclause (I) with respect to any individual who does not certify that the organization provided the individual with the explanation described in subsection (c)(3)(E) at the time the individual enrolled with the organization.

''(F)(i) At least 45 days before making the announcement under subparagraph (A) for the year, the Secretary shall provide for notice to eligible organizations of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

''(ii) In each announcement made under subparagraph (A) for a year, the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that eligible organizations can compute per capita rates of payment for individuals located in each county (or equivalent medicare payment area) which is in whole or in part within the service area of such an organization.

''(2) With respect to any eligible organization which has entered into a reasonable cost reimbursement contract, payments shall be made to such plan in accordance with subsection (h)(2) rather than paragraph (1).

''(3) Subject to subsections (c)(2)(B)(ii) and (c)(7), payments under a contract to an eligible organization under paragraph (1) or (2) shall be instead of the amounts which (in the absence of the contract) would be otherwise payable, pursuant to sections 1814(b) and 1833(a), for services furnished by or through the organization to individuals enrolled with the organization under this section.

''(4)(A) For purposes of this section, the 'adjusted capitation rate' for a medicare payment area (as defined in paragraph (5)) is equal to the greatest of the following:

''(i) The sum of—

''(I) the area-specific percentage for the year (as specified under subparagraph (B) for the year) of the area-specific adjusted capitation rate for the year for the medicare payment area, as determined under subparagraph (C), and

''(II) the national percentage (as specified under subparagraph (B) for the year) of the input-price-adjusted national adjusted capitation rate for the year, as determined under subparagraph (D),

multiplied by a budget neutrality adjustment factor determined under subparagraph (E).

''(ii) An amount equal to—

''(I) in the case of 1997, 80 percent of the input-price-adjusted national adjusted capitation rate for the year, as determined under subparagraph (D); and

''(II) in the case of a succeeding year, the amount specified in this clause for the preceding year increased by the national average per capita growth percentage specified under subparagraph (F) for that succeeding year.

''(iii) An amount equal to—

''(I) in the case of 1997, 102 percent of the annual per capita rate of payment for 1996 for the medicare payment area (determined under this subsection, as in effect on the day before the date of enactment of the Health Insurance Reform Act of 1995; and

''(II) in the case of a subsequent year, 102 percent of the adjusted capitation rate under this subsection for the area for the previous year.

''(B) For purposes of subparagraph (A)(i)—

''(i) for 1997, the 'area-specific percentage' is 90 percent and the 'national percentage' is 10 percent,

''(ii) for 1998, the 'area-specific percentage' is 85 percent and the 'national percentage' is 15 percent,

''(iii) for 1999, the 'area-specific percentage' is 80 percent and the 'national percentage' is 20 percent,

''(iv) for 2000, the 'area-specific percentage' is 75 percent and the 'national percentage' is 25 percent, and

''(v) for a year after 2000, the 'area-specific percentage' is 70 percent and the 'national percentage' is 30 percent.

''(C) For purposes of subparagraph (A)(i), the area-specific adjusted capitation rate for a medicare payment area—

''(i) for 1997, is the average of the annual per capita rates of payment for the area for 1994 through 1996, after adjusting the 1994 and 1995 rates of payment to 1996 dollars, increased by the national average per capita growth percentage for 1997 (as defined in subparagraph (F)); or

''(ii) for a subsequent year, is the area-specific adjusted capitation rate for the previous year determined under this subparagraph for the area, increased by the national average per capita growth percentage for such subsequent year.

''(D)(i) For purposes of subparagraph (A)(i) and subparagraph (A)(ii), the input-price-adjusted national adjusted capitation rate for a medicare payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the product (for each such type of service) of—

''(I) the national standardized adjusted capitation rate (determined under clause (ii)) for the year,

''(II) the proportion of such rate for the year which is attributable to such type of services, and

''(III) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying subclause (III), the Secretary shall, subject to clause (iii), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

''(ii) In clause (i)(I), the 'national standardized adjusted capitation rate' for a year is equal to—

''(I) the sum (for all medicare payment areas) of the product of (aa) the area-specific adjusted capitation rate for that year for the area under subparagraph (C), and (bb) the average number of standardized medicare beneficiaries residing in that area in the year; divided by

''(II) the total average number of standardized medicare beneficiaries residing in all the medicare payment areas for that year.

''(iii) In applying this subparagraph for 1997—

''(I) medicare services shall be divided into 2 types of services: part A services and part B services;

''(II) the proportions described in clause (i)(II) for such types of services shall be—

''(aa) for part A services, the ratio (expressed as a percentage) of the national average annual per capita rate of payment for part A for 1996 to the total average annual per capita rate of payment for parts A and B for 1996, and

''(bb) for part B services, 100 percent minus the ratio described in item (aa);

''(III) for part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved; and

''(IV) for part B services—

''(aa) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

''(bb) of the remaining 34 percent of the amount of such payments, 70 percent shall be adjusted by the index described in subclause (III).

The Secretary may continue to apply the rules described in this clause (or similar rules) for 1998.

''(E) For each year, the Secretary shall compute a budget neutrality adjustment factor so that the aggregate of the payments under this section shall be equal to the aggregate payments that would have been made under this section if the area-specific percentage for the year had been 100 percent and the national percentage had been 0 percent.

''(F) In this section, the 'national average per capita growth percentage' is equal to the percentage growth in medicare fee-for-service per capita expenditures, which the Secretary shall project for each year.

''(5)(A) In this section, except as provided in subparagraph (C), the term 'medicare payment area' means a county, or equivalent area specified by the Secretary.

''(B) In the case of individuals who are determined to have end stage renal disease, the medicare payment area shall be specified by the Secretary.

''(C)(i) Upon written request of the Chief Executive Officer of a State for a contract year (beginning after 1997) made at least 7 months before the beginning of the year, the Secretary shall adjust the system under which medicare payment areas in the State are otherwise determined under subparagraph (A) to a system which—

''(I) has a single statewide medicare payment area,

''(II) is a metropolitan based system described in clause (iii), or

''(III) which consolidates into a single medicare payment area noncontiguous counties (or equivalent areas described in subparagraph (A)) within a State.

Such adjustment shall be effective for payments for months beginning with January of the year following the year in which the request is received.

''(ii) In the case of a State requesting an adjustment under this subparagraph, the Secretary shall adjust the payment rates otherwise established under this section for medicare payment areas in the State in a manner so that the aggregate of the payments under this section in the State shall be equal to the aggregate payments that would have been made under this section for medicare payment areas in the State in the absence of the adjustment under this subparagraph.

''(iii) The metropolitan based system described in this clause is one in which—

''(I) all the portions of each metropolitan statistical area in the State or in the case of a consolidated metropolitan statistical area, all of the portions of each primary metropolitan statistical area within the consolidated area within the State, are treated as a single medicare payment area, and

''(II) all areas in the State that do not fall within a metropolitan statistical area are treated as a single medicare payment area.

''(iv) In clause (iii), the terms 'metropolitan statistical area', 'consolidated metropolitan statistical area', and 'primary metropolitan statistical area' mean any area designated as such by the Secretary of Commerce.

''(6) Subject to subsections (c)(2)(B)(ii) and (c)(7), if an individual is enrolled under this section with an eligible organization having a risk-sharing contract, only the eligible organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 1996.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON INDIAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to conduct three (3) consecutive hearings during the session of the Senate on Wednesday, April 17, Thursday, April 18, and Friday, April 19, 1996, on the President's budget request for fiscal year 1997 for Indian programs and related budgetary issues from fiscal year 1996. The hearings will be held at 1:30 p.m. each day in room 485 on the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday April 17, 1996, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, April 17, 1996, beginning at 10 a.m. until business is completed, to hold a hearing on campaign finance reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Select

Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 17, 1996, at 2 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. HATCH. Mr. President, I ask unanimous consent that the Administrative Oversight and the Courts Subcommittee be authorized to meet during the session of the Senate on Wednesday, April 17, 1996, at 2 p.m., to hold an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, April 17, 1996, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to consider S. 128, a bill to establish the Thomas Cole National Historical Site in the State of New York; S. 695, a bill to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas; and S. 1476, a bill to establish the Boston Harbor Islands National Recreation Area.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Wednesday, April 17, 1996, in open session, to receive testimony on the privatization of Department of Defense depot maintenance and other commercial activities.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

VETERANS AND SPENDING REDUCTIONS

● Mr. SANTORUM. Mr. President, I wanted to take a few additional minutes today to talk through my recent discussions with veterans' organization from Pennsylvania about legislation recently introduced by Senator SIMPSON.

Senator SIMPSON, at the request of four major veterans organizations, has introduced legislation addressing various inequities in the manner in which we treat the health of our Nation's veterans. Many of those issues addressed in the bill speak to issues I have witnessed, discussed, and worked on during my 5 years in Congress and as a former member of the House Veterans' Affairs Committee. Issues relating to the care and treatment of veterans and efforts to improve the veterans' health delivery system are very familiar and important to me.

Mr. President, I was born and raised on the grounds of a VA hospital facility, and I understand the concerns of veterans in this matter. My mother and father spent their careers working for veterans in Veterans' Administration hospitals. Our veterans fought on many battlefields to preserve the liberty of succeeding generations of Americans.

Today, one of the greatest threats to our children and grandchildren is not as much the imminent outbreak of war and the subsequent call to service, but rather the massive national debt and annual Federal deficits. If nothing is done, the next generation will face a future of diminished opportunity and a declining standard of living.

While service to our country has entitled veterans to very unique benefits that are available to no other single group of Americans, these benefits are by no means the root cause of our huge Federal deficits. I have fought against unnecessary cuts in veterans' programs that would have compromised our Nation's commitment to those who have served in defense of our freedom.

At the same time, however, any new spending on veterans' programs or benefits must be treated with an equal eye toward fiscal responsibility—sufficient spending reductions must occur within the Veterans' Administration itself or in other areas of Federal spending. At this time, the Simpson bill carries with it a revenue effect of $13 billion in new spending. I believe that the sponsor and I would both acknowledge that this bill should not move through the legislative process without a corresponding $13 billion in spending reductions.

These rules and budget realities are the same that I have operated under during my entire service in Congress. Recently, I fought on the Senate floor for sufficient spending reductions of $1.2 billion to cover and offset the costs of Federal disaster assistance, a large portion of which would benefit Pennsylvania communities as we rebuild from a blizzard and flood-ravaged winter. And in continuing to address the needs of our Nation's veterans, I will maintain this same standard.

Until such spending reductions are finalized and presented, Mr. President, I will temporarily withhold my own efforts and development on S. 1543. I understand that the administration is working on a legislative proposal similar to the Simpson bill, and that they are working through the same budget realities in producing a revenue neutral package. I remain committed to supporting our Nation's veterans. I support the direction and concept of the Simpson bill, and I will work with the sponsor to find cuts to pay for the costs of the bill.●

BOSTON'S ENGLISH HIGH SCHOOL

● Mr. KERRY. Mr. President, on Thursday, April 25, 1996, the English High School in Boston, MA, will be celebrating its 175th anniversary. The oldest public high school in the United States, English High School has changed with the times but has always maintained a high standard of education and compassion for its students. With award-winning teachers, students, and graduates, Boston English High is among the finest educational institutions in our Nation.

I would like to take this opportunity to recognize the English High School and join with the Boston Public Schools in celebrating its 175th anniversary.●

MISSED VOTES ON APRIL 16, 1996

● Mr. MURKOWSKI. Mr. President, while the Senate was in session yesterday, I was unable to participate in our proceedings because I was attending the funeral of my late uncle, Harry Murkowski, in Washington State.

My late uncle, Harry was 92 when he passed away late last week. He was the last of my relatives who was of my parents' generation and I felt it was important that I share my mourning with members of my family.

Harry, who was widowed several years ago, lived in Puyallup and Enumclaw, WA, worked his entire life as a fire fighter on the McChord Air Force Base. He is survived by his daughter, Beth Newman.

Mr. President, yesterday I missed two rollcall votes because of my attendance at the funeral. The April 16, CONGRESSIONAL RECORD reflects how I would have voted, had I been here to participate in the Senate debate. As the RECORD reflects, my vote would not have changed the outcome of either vote. ●

BAD LAW ON AFFIRMATIVE ACTION

● Mr. SIMON. Mr. President, one of the recent decisions that was a most unfortunate one was the decision by the U.S. Court of Appeals that colleges and universities cannot keep in mind diversity as they put together a student body.

No one was advocating quotas in this case, nor advocating that people who are not qualified should be admitted.

But to deny that diversity is part of the learning experiences of colleges and universities is to deny reality.

I hope the decision will be overturned.

We have enough backsliding in the field of race relations. We do not need to add the handicap of a bad court decision as another barrier.

Recently, Anthony Lewis had a column titled, ''Handcuffs on Learning''; and the New York Times had an editorial titled, ''Bad Law on Affirmative Action''. I ask that both articles be printed in the RECORD and I urge my colleagues to read them.

The articles follow:

[From the New York Times, Mar. 22, 1996]

BAD LAW ON AFFIRMATIVE ACTION

For two decades the governing principle of affirmative action in higher education has been that race and ethnicity may be a factor, but only one factor, in choosing among applicants in pursuit of the legitimate purpose of a diverse student body. That was the judgment of the Supreme Court in the celebrated 1978 case of Allan Bakke, a white applicant who sued for entry to a California state medical school.

Now a panel of the U.S. Court of Appeals for the Fifth Circuit declares that the Bakke decision is no longer good law. In a lawsuit by four rejected white applicants, the court strikes down a program of the University of Texas Law School to bring more blacks and Mexican-Americans into its student body. This tool is impermissible, say the judges, ''even for the wholesome purpose of correcting perceived racial imbalance in the student body.''

The ruling is hasty, aggressively activist and legally dubious. If the Bakke decision is no longer the law, it is for the Supreme Court to say so. We hope the high court does not, for its basic rule is sound. Rigid racial quotas are out, but no serious educational institution should be forced to disregard the goal of educating a diverse population.

To reach this result, the appeals judges engaged in exotic reasoning. They found that a now-retired Justice, Lewis Powell, who announced the judgment in Bakke, spoke only for himself on the racial diversity question. It is true that he was joined in the judgment by four other justices who relied on different legal grounds, but Justice Powell's announcement has soundly been regarded as the rule of the Bakke case for nearly a generation. Moreover, it has been widely hailed as the work of a respected moderate well grounded in experience as head of the school board in Richmond, Va.

Texas higher education officials have commendably sought diversity, but they cannot fairly be accused of adhering to rigid quotas. The diverse statewide population is 11.6 percent black and 25.6 percent Hispanic; while the 1992 law school entering class was 8 percent black and 10.7 percent Hispanic. Yet the appeals court says the school may not use ''ethnic diversity simply to achieve racial heterogeneity, even as part of the consideration of a number of factors.''

That is the doctrine of a ''color-blind'' Constitution, but it speaks to a time not yet here when the historic stain of racial oppression is erased, competition is truly equal and diversity comes more naturally. As another former Justice, Harry Blackmun, observed in the same Bakke case, ''In order to get beyond racism, we must first take account of race. . . . And in order to treat some persons equally, we must treat them differently. . . . The ultimate question, as it was at the beginning of this litigation, is: Among the qualified, how does one choose?''

The appeals court judges, eager to be the first to declare the battle for equal right over, have rendered a judgment that should not stand.

[From the New York Times, Mar. 22, 1996]

HANDCUFFS ON LEARNING

(By Anthony Lewis)

SAN DIEGO.—Universities around the world came to understand long ago that the quality of education improved if they had students with varying life experiences. That is why Oxford colleges sought working-class students. It is why Harvard, Yale and Princeton are far better universities today than when they were confined largely to privileged young white men.

In the life of Americans, race is a profound factor. Blacks may be bright or dull, rich or poor, but their experience in life has been different from whites'. And so, long before the phrase ''affirmative action'' was invented, universities thought it wise to have students of varied racial backgrounds.

The freedom of American universities to consider race along with other factors in choosing students has just been struck a devastating legal blow. It came in the decision of the United States Court of Appeals for the Fifth Circuit in the case of Hopwood v. Texas.

The University of Texas Law School some years ago had what amounted to a segregated admissions process. Minority applicants were considered by a separate committee and on different standards.

Cheryl Hopwood and other rejected white applicants sued, claiming that that system denied them the ''equal protection of the laws'' guaranteed by the 14th Amendment. The Fifth Circuit, ruling in their favor, could have limited itself to the particular admissions process at issue. But it went much further.

The court said that the Texas law school ''may not use race as a factor'' in admissions. It did not speak of a dominant or even significant factor but outlawed consideration of race as any factor at all. Moreover, in an extraordinary display of hostility, the court left the way open for the plaintiffs to collect money damages for what it said was ''intentional discrimination.''

The Equal Protection Clause of the Constitution, which the court found violated, applies only to state action. But private universities may also be affected. Civil rights laws forbid racial discrimination at private universities that receive any kind of Federal aid—and nearly all do.

The ultimate danger is to the freedom of American universities. The Fifth Circuit treated this case as if it were the same as the Supreme Court's recent decisions limiting set-asides for minority contractors and broadcast licensees. But education is different. Its freedom in decisionmaking—an urgent need in our society—has to be weighed against the rightful claims of equal protection.

Reading the Fifth Circuit's opinion, by Judge Jerry E. Smith, one feels a sense of detachment from reality. For instance, it rejects as racist the assumption that an individual ''possesses characteristics'' because of his race. Right. But the issue is not characteristics. It is experience. And any judge who thinks black Americans have not had a different experience is blind.

Think about women judges or Supreme Court justices. They are not wiser or less wise by virtue of their gender. But they have had a different experience from men, and that is why it is important to have them on the bench.

The reality of university admissions, as opposed to the mechanical abstractions of the Fifth Circuit decision, is on display here in California. Gov. Pete Wilson, playing to white male resentment, pushed through the Board of Regents a rule forbidding the use of race or gender as a factor in admissions to the University of California.

Now it turns out that regents who voted for what they called ''merit'' admissions had leaned on the University of California at Los Angeles to admit the children of friends. An investigation by The Los Angeles Times shows that U.C.L.A. gave special consideration to children of politicians and the rich.

In other words, we have affirmative action for the privileged. But not for the race that was enslaved for 200 years and abused for another 100 and more.

Universities, in their freedom, can increase understanding across the racial lines in this country. Unless the Supreme Court undoes this assault on their freedom, we are going to be an even more divided society.●

THE RECENT BOMBINGS IN ISRAEL

Ms. MOSELEY-BRAUN. Mr. President, I would first like to congratulate President Clinton for his leadership at the ''Summit of Peacemakers'' conference which was recently convened in Egypt. I salute the President and the other world leaders who gathered in Sharm El Sheik for their avowed support of the Middle East peace process and their strong showing of international solidarity against terrorism.

I also want to extend my heartfelt sympathy and condolences to the families of those murdered in the recent terrorist attacks in Israel. May the Almighty comfort them among the mourners of Zion and Jerusalem. As the Nation of Israel mourns the loss of its sons and daughters, I pray that the story of Purim will serve to comfort the entire family of Israel and give it hope, knowing that God will deliver the Jewish people today as in the past.

Mr. President, I condemn in the strongest of terms the barbarous acts of organized and random terrorism against innocent Israeli civilians, including young children. Those responsible for these indiscriminate and cowardly acts of murder and violence must be held accountable for their actions and brought to justice. Their punishment must be swift, decisive and thorough, not only to serve as a deterrent, but as a reminder that the world community will never allow the evils of terrorism to triumph over the forces of peace.

I call upon the peace and freedom loving peoples of Gaza, the West Bank and the Arab world to condemn outright these heinous acts of barbarism allegedly committed on their behalf and in their name. These acts do not further Palestinian interests nor, I believe, do they represent the sentiments of the overwhelming majority of the Palestinian people. I further enjoin them to outlaw, expose, disarm and arrest members of paramilitary organizations within their midst and to deny them sanctuary and safe haven. Their presence and actions are a threat not only to the State of Israel, but also to the Palestinian self-rule national authority in the West Bank and Gaza.

Mr. President, we can no longer afford to look at terrorism and suicide bombings in Israel—and in other parts of the world —as a distant danger. The bombing of the World Trade Center in New York City in February 1993 and the bombing of the Federal building in Oklahoma City last April have shattered our false notions of security. Anti-terrorism units, swat teams, and bomb squads train with the same intensity and seriousness of purpose as sprinters, long distance runners, swimmers, and gymnasts in their preparation for this summer's Olympic games in Atlanta. In truth, every act of terrorism—in Israel or elsewhere—strikes

at the essence of all free, democratic and open societies. Our disagreements are dealt with civility and without violence or the threat of violence.

With each terrorist threat against the Government, our citizens lose a measure of their freedom. When an American seeks to exercise even the most basic of rights—renewing a drivers license, boarding an airplane or picking up documents at a government building—he or she is often subject to a thorough search of his or her person and property. Even the street in front of the White House—the people's house—has been closed and street traffic rerouted. Moreover, streets around the House, Senate and Capitol buildings have been blocked-off and barricaded. All of these measures have been done because of our heightened sense of vulnerability to terrorism. The humiliation and inconvenience that these situations present are mitigated only by the American people's acquiescence and realization that such practices are unfortunately necessary in today's world. But it does not have to be this way, and we must not become accustomed to the threat of terrorism. To the extent that we refuse to accept it, to the extent we refuse to be desensitized to violence, we will invigorate the will to fight it.

The most recent bombings in Israel have also had a direct impact on my home State of Illinois. The celebration of the Jewish holiday of purim is traditionally one of the more colorful festivals in the city of Chicago. Children are dressed in costumes, friends exchange gifts and there is laughter and merriment. However, as events of yet another suicide bombing in Israel unfolded, grief, anxiety and depression replaced joy, laughter, and merriment.

The juxtaposition of bombs and purim provides a context for understanding how we can draw inspiration and strength from history. Just as the Jews in Ancient Persia responded to danger with prayer and courageous action, so too must we. Mr. President, I, for one, am tired of lighting candles, attending memorial services and waiting for news of the next terrorist attack. It is time for us to be proactive and not merely reactive. We must declare all-out war against terrorism and terrorist organizations and take the fight to them wherever they exist—at home or abroad. We must make it clear to terrorists, their organizations, and the countries which sponsor and harbor terrorists that their actions will not produce the desired result—the interruption or abandonment of the peace process—and that the United States and other nations will no longer permit their actions to go unpunished.

There must be a recognition, however, that terrorism cannot be defeated through unilateral action alone. World leaders must understand that it is in every country's interest to have this menace eradicated from the face of the Earth. Unless and until serious antiterrorist actions are implemented internationally, including the denial of safe haven and sanctuary for perpetrators of terrorism, we can expect more, not fewer, incidents like we witnessed in Israel these past 2 weeks.

Mr. President, we, the inhabitants of this planet, are one family. While differences and disputes are unavoidable, I believe all problems, no matter how intractable they may seem, are soluble. Peace and negotiations are not just the answer—they are the only answer.●

GENE R. ALEXANDER

● Mr. SIMON. Mr. President, I want to commend and congratulate Mr. Gene Alexander of Benton, Illinois. On April 25, 1996, the school library at the Benton Elementary School will be dedicated as the Gene R. Alexander Learning Resource Center. Mr. Alexander was a teacher and principal in the Benton School District for 32 years.

Now that he has retired, ''Mr. A.'' spends his free time volunteering for these same children. He does everything from cleaning school desks to teaching children about the American flag. His commitment to these children is inspirational.

We need more leaders like this and having a library dedicated to him is a fitting tribute. I want to commend Mr. Alexander on his hard work and his lifetime of dedication to the children that he serves.●

REFORM OF OUR TAX CODE

● Mr. SANTORUM. Mr. President, I wanted to take a few minutes to talk about the tax burden that American families feel today and the drastic need for fundamental and comprehensive reform of our Tax Code.

During our brief break from legislative business over the past 2 weeks, I had the opportunity to visit with constituents in various communities in my State to discuss the effects of Federal tax policies on families. Quite clearly, the tax burden over the past few decades has greatly increased; the inequities of the Code have been exacerbated; and the incentives for savings have largely diminished. If it was anything that I heard during the course of nine town meetings, it was the demand for a fairer, simpler tax system and an even greater demand by taxpayers to keep more of what they earn.

As a Member of the House of Representatives, I served on the Ways and Means Committee, which has jurisdiction over tax legislation. I recognize that our current system of taxation is burdensome and intrusive, and I think we are all aware how complex our system is, given the large amount of time Americans spend in computing and filing their taxes each year.

On Monday, I had the pleasure of traveling through Pennsylvania with Senator SPECTER, along with our Governor, Tom Ridge, as we hosted the distinguished majority leader, Senator BOB DOLE. The significance of traveling across my State on tax day brings with it a renewed commitment to fight for Federal policies addressing and correcting not only the many inequities in our system, but demanding a fundamental reexamination by this Congress of the Federal Tax Code as a whole.

I strongly believe that Congress must continue to explore comprehensive simplification of our Tax Code. Several of my colleagues have introduced legislation to institute various alternative tax systems as well as proposals to provide varying degrees of tax relief to American families. To reaffirm this commitment to tax fairness, I am pleased today to join Senator DAN COATS as a cosponsor of his legislation to provide not only for middle-class tax relief, but also to encourage increased personal investment and savings while balancing the growth of Federal spending in general.

This Congress, as a direct result of the Republican majority, has come as close as a veto pen to enacting tax fairness for American families—fairness and relief that many would have realized in preparing their tax returns by Monday evening's filing deadline. A year after the political battle over tax relief and a year later on tax day, the same challenges and needs remain in devising a tax structure that provides greater balance, incentives, and benefits to American families and taxpayers. These next few weeks in the Senate are critical and serve as another opportunity to readdress, pass, and finally enact these changes.●

HONORING BRIAN PALMER HAFLER

● Mr. KERRY. Mr. President, I would like to take a few moments to acknowledge a very talented and promising resident of Massachusetts, Brian Palmer Hafler. Brian was chosen as a seventh place winner in the prestigious Westinghouse Science Talent Search, a national competition that recognizes the outstanding math and science achievements of high school students aged 16 to 18. Brian was recognized for his research involving T cells, research that may be instrumental in the future treatment of autoimmune diseases.

After graduation from the Roxbury Latin School, West Roxbury, MA, Brian intends to continue his scientific research as a molecular biology student at Princeton University. In addition to his scholarly accomplishments, Brian has won varsity letters in wrestling and cross country, numerous academic awards, and a service award for his work in tutoring inner-city students.

I applaud Brian on receiving the Westinghouse Science Award, and wish him success in his future endeavors.

TESTIMONY OF JONATHAN KOZOL

Mr. SIMON. Mr. President, I had a chance to read the testimony of Jonathan Kozol, an author who prods our conscience, before the House Committee on Economic and Educational Opportunities, which I ask to be printed in the RECORD after my remarks.

It is a summary of where we are, as he points out, on this year that celebrates the 100th anniversary of the unfortunate Plessy v. Ferguson decision.

The need to do a better job, the need to show care, the need to create opportunity for everyone is here. The question is whether we will pay attention to this obvious need or whether we will ignore it, ultimately at our own peril.

The article follows:

COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES—U.S. HOUSE OF REPRESENTATIVES, MARCH 5, 1996

TESTIMONY OF JONATHAN KOZOL

Mr. Chairman: As you know, this year commemorates the 100th anniversary of Plessy versus Ferguson, but few of the poorest children in our nation will find much to celebrate. Public schools throughout the land, with rare exceptions, are still separate and unequal.

In New York City, to take only one example, public schools for poor black and Hispanic children are nearly as segregated as the schools of Mississippi 50 years ago. The city spends less than half as much per-pupil as its richest suburbs—a differential found, of course, all over the United States.

For many years, the only force that helped consistently to militate against these inequalities has been the Federal government. Although Federal money represents only a tiny fraction of the total education budget in our nation, it has been targeted at schools and neighborhoods in greatest need; and, while Federal aid may represent, on average, only 6 percent of local education budgets, it represents as much as 20 percent in our low-income districts.

Now, as the dismantling of Federal aid is being contemplated, as block grants are proposed as substitutes for targeted assistance to the poor, the plight of children in the most impoverished districts will inevitably worsen.

I remind you also of the gross and cumulative deterioration of schoolbuildings in low-income neighborhoods. ''Deferred maintenance''—an antiseptic term which means that water buckets must be scattered around classrooms to collect the rain that penetrates a hundred-year-old roof, while hallways stink of urine from the antiquated plumbing in the bathrooms of a school—is well above $100 billion.

Conditions like these do not just soil bodies. They also dirty souls and spirits, and they give our children a clear message. They tell them that, no matter what we say about ''high expectations,'' no matter what exhaustive lists of ''goals'' and ''standards'' we keep churning out for the millennium, the deepdown truth is that we do not like them very much, nor value their potential as Americans.

Millions of children are going to class each day in buildings none of you would be prepared to work in for one hour. All the boosterism in the world, all the hype and all the exhortation, all the upbeat speeches by a visiting politician telling kids, ''You are somebody,'' has no palpable effect if every single thing about the school itself—its peeling paint, its rotting walls, its stinking corridors, its crowded, makeshift classrooms in coat closets, on stair-landings, and in squalid corners of the basement—tells our children, ''In the eyes of this society, you are not anyone at all.''

The notion of ''retrofitting'' schools like these for the computer age has something of the quality of a Grimms fairy tale. How will a school that can't repair the toilets or afford to pay for toilet-paper find the money to buy IBM or Microsoft? The gulf between the national ''goals'' and the degrading day-to-day reality of life for children in these schools has something about it that suggests delusionary thinking. There is simply no connection between slogans and realities.

Despite all this, we face the strange phenomenon of being asked repeatedly, by those who spend as much as $20,000 yearly to enroll their children in exclusive private schools, whether money really matters when it comes to education of the poor. ''Can you solve these kinds of problems,'' we are asked, ''by throwing money at them?''

I always find this a strange question, but especially when it is asked by those who do precisely this for their own children. Money cannot do everything in life. It can't buy decency. It obviously does not buy honesty or generosity of spirit. But, if the goal is to repair a roof or to install a wiring system or remove lead poison or to pay for a computer, or persuade a first-rate teacher to remain in a tough job, I think money is a fine solution.

A rhetorical devise used by some politicians points to unusual districts such as Washington DC, or East St. Louis, Illinois, that spend a bit more money than some of the nearby districts but do poorly by comparison. This, we are told, is proof that ''money does not matter.'' But, in most cases, there are districts that also plagued by pediatric illness like chronic asthma, by lead-poisoning, by astronomic rates of AIDS, and joblessness, and drug-addiction, and a global feeling of despair. Equality, as Dr. King reminded us, does not mean equal funding for unequal needs. It means resources commensurate with the conditions of existence.

It is true that there has been anarchic inefficiency in certain urban districts; this needs to be addressed. But even where efficiency has been restored, as in Chicago for example, funds are not forthcoming. Still we are told to ''cut the fat'' from the administration. But in New York, as in Chicago, there is no more fat to cut. We are now cutting at the bone and at the hearts of children.

And so we come at last to 1996 and to the present moment in the U.S. Congress, where the forces of reaction tell us it is time to ''get tough'' with poor children. How much tougher do we dare to get? How cold, as a society, are we prepared to be?

New York City, as things stand right now, can barely eke out $7,000 yearly for the education of a first grade child in a school I've visited in the South Bronx, but is spending $70,000 yearly on each child it incarcerates—$60,000 on each adult. If Title I is slashed by Congress, it will devastate the children in this school. In the 1980s, these impoverished children lost the dental clinic in their building. A year ago, they lost the afternoon program where they could be safe in school while mothers worked or looked for jobs. This June, their teen-age siblings will lose summer jobs as Congress lets that program die as well. Only 10 percent of these children are admitted into Head Start programs. The one place to which they are sure of being readily admitted is the city's prison island—now the largest penal colony on earth.

Beyond the cutbacks, there is one more shadow looming, and that is the everpresent threat of education vouchers—a modernized version of a hated memory from 40 years ago, when Southern whites fled from the public schools after the Brown decision, seeking often to get public funds to subsidize their so-called ''white academies.'' They didn't succeed in this attempt, but now another generation—more sophisticated and more clever in concealing racial animus—is driving toward the same objective by the instrument of vouchers.

This time, they are smart enough to offer vouchers to black children and poor children too, but the vouchers they propose can never pay for full tuition at a first-rate private school and, in effect, will simply filter off ''the least poor of the poor'' who can enhance the voucher with sufficient funds to flee into small private sanctuaries that exclude their poorest neighbors. By filtering off these families from the common areas of shared democracy, we will leave behind a pedagogic wasteland in which no good teacher will desire to teach but where the masses of poor children will remain in buildings that are schools only in name. We are getting close to that point even now. Vouchers, combined with further fiscal cuts, will bring that day considerably nearer.

Some of us who stand up to defend the public schools may seem, at first, to be in an untenable position: We give the appearance of not wanting to change while pointing to how bad things are today. This is our fault, I think, because we tend to speak defensively about the status quo, and fail to offer a more sweeping vision for the future. We scramble to save Title I—and so we should. But Title I, essential as it is, is a remedial side-dish on the table of inequity. We should be speaking of the main course, but have largely failed to do so.

Our vision ought to be to build a public system that is so superb, so democratic, and well-run, that no responsible or thoughtful parent would desire to abandon it. To bring this vision to fruition, we would have to raise the banner of efficiency as high as any voucher advocate has done. We cannot defend dysfunction on the grounds that it is somehow one of the inevitable corollaries of democracy. But simply to support ''efficiency'' or to encourage innovations such as charter schools is not nearly enough. Innovative and efficient inequality is still unworthy of America. We also need to raise a bolder banner, one that cries out for an end to gross inequity, one that uses strong word for the savagery of what we do today: providing college preparation for the fortunate, bottom-level-labor preparation for the lower-middle class, and prison preparation for our outcasts.

None of my respected friends here in the House of Representatives believes that it is fair to rig the game of life the way we do. We wouldn't play Little League like this. We'd be ashamed. Our victories would seem contaminated. Why aren't we saying this in words Americans can hear?

There is too much silence on this issue among Democrats. It leaves the field to those who speak bombastically, with violence of spirit, as they swiftly mount their juggernaut of cutbacks, vouchers, and secession from the public realm. Virulent racism, as we know too well, is often just beneath the surface of discussion too. I heard few voices in the Congress that address this boldly. There is a sense of quiet abdication and surrender.

Despite my feeling of discouragement, I would like to add that I was reassured to see that Secretary Riley spoke out clearly on the voucher issue recently. As always, he was eloquence and fearless. The same eloquence and the same fearlessness are needed now among the Democrats in Congress. Some of those Democrats, whom I have had the privilege to know for many years, will be retiring soon. Before they do, I hope that

they will find the opportunity to wage one final battle for those children who cannot fight for themselves. I hope they won't leave Congress quietly, but with an angry sword held high. In that way, even if they lose this battle, they will leave behind a legacy of courage that a future generation can uphold with pride.●

BURTON MOSELEY

Ms. MOSELEY-BRAUN. Mr. President, at the time the world was mourning the terror in Israel, my family was mourning the loss of my beloved uncle, Burton Moseley.

Uncle Burt was my late father's only sibling. Both before and after my dad passed away, Uncle Burt was a mentor, a friend, and a role model. He was a simple, honest man, an upright man who brought joy to those whose lives he touched.

No one had a harsh word about him, he never spoke ill of another person. He was, for almost all of his adult life, a Chicago police officer. He epitomized the very best in law enforcement, a person who cared about the quality of life in his community, and who saw fighting crime as a way to contribute. He remained active in the Guardians police organization to the end.

He was our hero.

SPLIT OVER MORALITY

● Mr. SIMON. Mr. President, people are concerned about what is happening to our country and they are not simply concerned about economics. They are concerned about many issues that reflect our culture in ways that are not healthy.

E.J. Dionne, Jr., one of the most thoughtful journalistic observers of our scene, recently had a column in the Washington Post titled, ''Split Over Morality,'' which I ask to be printed in the RECORD after my remarks.

For those of you who saw it originally in the Post, it is worth rereading, and for those who did not, it should be read and clipped and saved.

The column follows:

SPLIT OVER MORALITY

(By E. J. Dionne, Jr.)

It is remarkable how quickly political talk these days turns to the question: What does the religious right want? Variations on the theme include: How much must Bob Dole do to get the votes of Christian conservatives? Can't President Clinton help himself by hanging the religious right around Dole's neck?

All this might be taken as a great victory by Ralph Reed and the Christian Coalition he directs. The obituary of the religious right has been written over and over since the rise of the Moral Majority in 1980. Yet none of this has stopped the Christian conservative movement from expanding its influence.

Reed and his troops have already gotten a lot of credit for help Dole stop Pat Buchanan's surge dead in the South Carolina primary. That is the very definition of political power.

Reed and his followers have every right to do what they are doing. Religious people have the same rights as union members, environmentalists, business groups and feminists. President Clinton himself has spoken at hundreds of black churches. The president is often at his most effective from the pulpit, an exceptionally good venue for his favorite speeches about the links between personal responsibility and social justice, crime and unemployment.

Democrats thus have no grounds for challenging Reed's argument that his people deserve ''a place at the table'' of national politics. What does need real debate is more important. It has to do with how moral issues should be discussed in politics, and also how they should be defined.

A lot of Americans—including many who want nothing to do with Ralph Reed—have a vague but strong sense that what's going wrong in American life is not just about economics. It also entails an ethical or moral crisis. Evidence for this is adduced from family breakdown, teen pregnancy, high crime rates (especially among teenagers), and trashy movies, television and music.

But unlike many on the Christian Right, these same Americans see strong links between moral and economic issues. Their sense that commitments are not being honored includes family commitments, but it also includes the obligations between employer and employee and the question of whether those ''who work hard and play by the rules,'' as the president likes to put it, are getting just treatment.

Democrats, liberals and other assorted critics of the religious right have no problem in discussing these economic matters. But they have made the reverse mistake of Reed and his friends: The religious right's foes have only rarely (and only relatively recently) been willing to understand that many American families see the moral crisis whole. It's possible, and reasonable, to be worried about both trashy entertainment and the rewards that go to the hard-working. Human beings are both economic and moral creatures. But liberals often cringe when the word ''morality'' is even mentioned.

Giving the Christian right a near monopoly on moral discussion has narrowed the moral debate. This narrowing needs to be challenged.

To hear leaders of the religious right talk in recent weeks, for example, one of the preeminent moral issues of our time is whether gay marriages should be sanctioned by state or local governments. But surely this is not even the 10th or the 25th most important issue for most Americans. The resolution of this question one way or the other will do virtually nothing about the moral issues such as crime or family breakup that actually do trouble lots of people.

It's easy enough to recognize why tradition-minded Americans are uneasy with this broadening of the definition of ''marriage.'' But turning this question into yet another political litmus test will only push the political debate toward yet another ugly round of gay-bashing. Is that what 1996 should be about?

What needs to be fought is a tendency described movingly by Stephen Carter in his new book, ''Integrity.'' It is a tendency Carter quite fairly discerns all across the political discussion.

''I must confess that the great political movements of our day frighten me with their reckless certainties and their insistence on treating people as means to be manipulated rather than as the ends for which government exists,'' he writes. ''Too many partisans seems to hate their opponents, who are demonized in terms so creative that I weep at the waste of energy, and, as one who struggles to be a Christian, I find the hatred painful.'' So would we all.●

WEST VIRGINIA WESTINGHOUSE SCIENCE TALENT SEARCH

Mr. ROCKEFELLER. Mr. President, today, I would like to take a moment to recognize the 40 finalists in the 55th Annual Westinghouse Science Talent Search. These exceptional American youth—hailing from 13 States, including my home State of West Virginia—are being honored as the Nation's brightest high school math and science students.

This program, sponsored by the Westinghouse Foundation, in partnership with Science Services Inc. since 1942, awards America's most prestigious and coveted high school scholarships in math and science. This year's finalists are among 1,869 high school seniors from 735 high schools located throughout the 50 States, the District of Columbia and Puerto Rico, including two West Virginia students, Namoi Sue Bates of Franklin and Bonnie Cedar Welcker of Parkersburg. Their independent science research project entries cover the full spectrum of scientific inquiry, from biology to solid state luminescence.

The honor of being named to this group far exceeds the value of the scholarships and awards bestowed. Over the years, finalists have included five winners of the Nobel Prize as well as those who have achieved brilliant careers in science, medicine, and related fields.

Mr. President, I want to commend each and every one of these outstanding American teenagers who truly embody the American dreams of discovering, curing, inventing, and changing the world.

PENTAGON REPORT PREDICTS BOSNIA WILL FRAGMENT WITHOUT VAST AID

● Mr. SIMON. Mr. President, when the Bosnian intervention question came before the Senate, I strongly supported President Clinton's request, but added that I thought it was unrealistic to believe that we could go in and in 1 year pull out.

We made that mistake in Somalia and we should not make the same mistake again.

Recently the New York Times had an article by Philip Shenon titled, ''Pentagon Report Predicts Bosnia Will Fragment Without Vast Aid,'' which I ask to be printed in the RECORD after my remarks.

It tells in very realistic terms why it is necessary to retain some troops in the Bosnian area in order to have stability in that area of the world.

If we fail to do that, we invite bloodshed and instability that will inevitably spread to Macedonia, Albania, and other neighboring areas.

The article follows:

[From the New York Times]

PENTAGON REPORT PREDICTS BOSNIA WILL FRAGMENT WITHOUT VAST AID

(By Philip Shenon)

WASHINGTON, March 19—The Pentagon has offered its grimmest assessment of the prospects for peace in Bosnia to date, warning that without an enormous international aid program to rebuild its economy and political institutions, the country will probably fragment after the withdrawal of NATO peacekeeping troops late this year.

The assessment for the Senate Intelligence Committee was prepared by the Pentagon's senior intelligence analyst, Lieut. Gen. Patrick M. Hughes, and it could signal an effort by the Defense Department to distance itself from blame if the civil war resumes shortly after the NATO withdrawal.

General Hughes, the director the Defense Intelligence Agency, offered reassuring words in his report for American troops stationed in Bosnia, suggesting that NATO forces face no organized military threat. If the war resumes, he said, it will not be until after the American peacekeepers and their NATO allies have pulled out.

But the report, dated Feb. 22, offered no similar solace for the people of Bosnia. General Hughes said that the ''prospects for the existence of a viable, unitary Bosnia beyond the life'' of the NATO deployment are ''dim'' without a large international program to revive Bosnia's war-shattered economy.

If his assessment is accurate, the peace effort in Bosnia could well be doomed, since the civilian reconstruction effort there is barely under way, its economy and physical infrastructure—roads, water and electricity lines, telephones—still in ruins. The last American soldiers are scheduled to withdraw from Bosnia in December.

General Hughes said that the strategic goals of the warring factions in the region ''have not fundamentally changed'' since the days of the civil war and that tensions among them would probably grow in the months leading up to the NATO pullout.

If that is true, the Clinton Administration might come under intense pressure from its NATO allies not to withdraw American troops by the end of December—a deadline that the Administration insists it will hold to.

The Pentagon assessment also implicity questions basic elements of the American-brokered Dayton peace agreement, which laid out what critics in Congress called unrealistic deadlines for political and economic reconstruction in Bosnia and for the withdrawal of peace-keeping troops.

''There's only so much our soldiers can accomplish,'' said another senior Defense Department official, echoing the report's central findings, ''The military forces agreed to keep the peace for a year, and that's what we're doing. But this peace will not hold without an effort to rebuild the country. That's not being done yet. And that's not our job.''

The job of organizing the economic and political reconstruction of Bosnia has been left to a European delegation led by Carl Bildt, a former Swedish Prime Minister.

But Mr. Bildt has complained repeatedly in recent months that foreign governments have been slow to make available the billions of dollars needed for civilian reconstruction—everything from building bridges to printing election ballots—and that the political component of the peace effort is lagging far behind its military component. In a meeting this month with donor countries, he pleaded that the donors ''do more to honor the pledges we have made.''

While questioning whether Bosnia was about to dissolve once again into civil war, General Hughes said in his report that ''in the short term, we are optimistic'' about the situation faced by the 18,400 American soldiers stationed there as part of the peacekeeping force.

''We believe that the former warring factions will continue to generally comply with the military aspects'' of the peace accord, the report said. ''We do not expect U.S. or allied forces to be confronted by organized military resistance.''

The threat faced by the American forces would come instead from land mines ''and from various forms of random, sporadic low-level violence,'' the report said. ''This could include high-profile attacks by rogue elements or terrorists.'' So far only one American soldier has been killed in Bosnia, an Army sergeant who was killed in an explosion on Feb. 3 as he tried to defuse a land mine.

The report suggested that if the civil war resumes, it will flare up only after the NATO forces have pulled out, removing the buffer that has kept the factions at peace for most of the last four months.

''The overall strategic political goals of the former warring factions have not fundamentally changed,'' General Hughes said. ''Without a concerted effort by the international community, including substantial progress in the civil sector to restore economic viability and to provide for conditions in which national (federation) political stability can be achieved, the prospects for the existence of a viable, unitary Bosnia beyond the life of IFOR are dim.'' The NATO forces in Bosnia are known as the Implementation Force, or IFOR.

General Hughes suggested that all of the fragile alliances created by the peace accord might collapse—with tensions between the Bosnian Muslims and Bosnian Croats threatening their federation, with the Bosnian Croats working toward ''de facto integration'' with Croatia, and with elections and the resettlement of refugees ''delayed or stymied.''

He said that the Bosnian Serbs were likely to consolidate their hold on their own territory, seeking ''some form of political confederation'' with Serbia.

Questions about whether any peace in Bosnia would outlast the presence of NATO troops—and whether American troops would be stuck there as a result—were at the heart of the debate in Congress that preceded votes to authorize the American military deployment. Senator Bob Dole, the front-runner for the Republican Presidential nomination, demanded and won an Administration pledge to play a role in arming and training the Bosnian Government's army.

The assessment by the Defense Intelligence Agency is only slightly more pessimistic than remarks heard elsewhere in the Pentagon. Senior Defense Department officials have long warned that the peace would fail without a huge effort to rebuild Bosnia and to give the people some hope of economic and political stability after years of slaughter.

''Ultimately I think the bigger problem is not the military implementation of the peace agreement,'' Gen. John Shalikasvili, the Chairman of the Joint Chiefs of Staff, told the House National Security Committee this month. ''We need to make sure we understand that it is equally important to the overall effort—and also the safety of the troops—that we get on with the civilian functions that need to be performed.''

''And when I say 'we,' I don't mean the military, but the nations that are involved in this effort,'' he added.

''The elections have to go forward, the refugees have to begin to return, reconstruction has to start, the infrastructure has to be rebuilt so that the people in the country can see an advantage to not fighting.''

MEASURE PLACED ON CALENDAR—H.R. 2337

Mr. SPECTER. Mr. President, I ask unanimous consent that H.R. 2337, which was just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, APRIL 18, 1996

Mr. SPECTER. Mr. President, I ask unanimous consent, on behalf of the leader, Senator DOLE, that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m., on Thursday, April 18; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate then begin consideration of S. 1028, the Health Insurance Reform Act of 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SPECTER. Mr. President, on behalf of Senator DOLE, for the information of all Senators, the Senate will begin the health insurance reform bill tomorrow morning. Amendments are expected to be offered to that legislation. Therefore, Senators can expect rollcall votes throughout the day, and a late session is anticipated. The Senate may be asked to turn to any other legislative items that can be cleared for action.

ORDER FOR ADJOURNMENT

Mr. SPECTER. Mr. President, if there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order following the conclusion of the remarks that I shall make as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I seek recognition to comment on a number of subjects. The Senate has been in session for the last 2 days continuously on the terrorism bill, and there are a number of subjects that I have sought recognition to speak about at this time.

As we say, the Senate is on ''automatic pilot,'' so when I conclude my remarks, the Senate will be in adjournment.

Mr. President, I ask unanimous consent that the following remarks appear under a caption of ''Foreign Travel, April 2 through April 5, 1996.''

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN TRAVEL, APRIL 2 THROUGH APRIL 5, 1996

Mr. SPECTER. Mr. President, on April 2, on behalf of the Senate Intelligence Committee, I traveled to Paris and then to The Hague, where I consulted with the prosecution teams of the war crimes tribunal to assess their progress. Then, on April 3, on to Belgrade April 4, then to Tuzla, and back to Paris on the evening of April 4.

While in Paris, I had the opportunity to observe the operation of the Paris Embassy, under the direction of Ambassador Pamela Harriman. I was very much impressed with what I saw of the operation there. Ambassador Harriman conducts a large Embassy. Really, Paris is the crossroads of the European continent. There are many complex issues that confront the Embassy involving security matters with NATO, involving commercial matters, involving activities that touch upon the operation of the Senate Intelligence Committee and the Central Intelligence Agency. I was very much impressed with those operations.

During the course of my discussions with Ambassador Harriman, I discussed with her the cuts in the budget of the State Department in the so-called 150 Account. And from the work I have done on the Appropriations Committee, and in the past having been on the subcommittee with jurisdiction over the Department of State, it is my sense that the cuts that have been imposed are excessive.

I asked Ambassador Harriman to prepare for me a list of specifics, which she has done, entitled ''Disinvesting in Diplomacy,'' pointing out how hard hit large Embassies will be, like the Embassy in Paris, and with the specification of the cuts and the impact of those cuts on her operation. I was especially impressed with one of her offices, from which 17 officers had been cut, under last year's reduction, to 12, and if the anticipated cuts are put into effect for next year, down to 7.

Mr. President, at the conclusion of my remarks, I ask unanimous consent that the specification under the caption ''Divesting in Diplomacy'' be printed in the RECORD.

The PRESIDING OFFICER (Mr. ASHCROFT). Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, while in Paris, and at the Embassy on the evening of April 2, I visited with Secretary of Commerce Ron Brown for whom a reception was held in his honor along with the Secretary of Labor Robert Reich.

As we all know, on the very next day Secretary Brown and his company met their untimely deaths with the crash of their plane making a landing approach into Sarajevo.

When Secretary Brown and I spoke on the evening of April 2 at about 6:45 he was robust, enthusiastic, and very anxious to carry out his responsibilities as Secretary of Commerce. He had brought with him a group of United States businessmen who could be instrumental in the rebuilding and the revitalization of Bosnia.

It is well accepted that, if the peace in Bosnia is to stay and is to hold, there will have to be a buildup of the infrastructure there, and Secretary Brown was there in connection with those duties. He and I talked about meeting in Sarajevo or Zagreb. But that meeting unfortunately did not take place. The next morning I departed for Serbia, was in Belgrade, and had a plane on April 3 to travel to Sarajevo. That plane was canceled because of weather. We did not go to Sarajevo, and the same weather conditions resulted in the fatal crash of Secretary Brown and his company.

I traveled the next day to Tuzla, arrived there early in the morning, was met by General Cherry, and we immediately talked about Secretary Brown's visit the preceding day. Secretary Brown had arrived at 6:40 a.m. on April 3 and visited the United States military establishment in Tuzla, and departed at 1:58 p.m. And then, as we know, shortly thereafter the fatal crash occurred on the approach to the landing in Dubrovnik.

Secretary Brown was certainly a stalwart advocate of U.S. interests, and his loss will be deeply felt by the U.S. Government. On behalf of my wife Joan, I want to convey our deepest sympathies and condolences to Ron's wife, Alma, and their two children, Michael and Tracey, and the rest of their family.

EXHIBIT 1

DISINVESTING IN DIPLOMACY

Large projected cuts in the 150 account will hamper our ability to attain U.S. economic, security and political objectives worldwide for many years to come.

Among the hardest-hit will be our large embassies in Western Europe. These Embassies protect and promote vital U.S. interests. Western Europe is home to most of our biggest and most powerful trading and investment partners. NATO is our most important military alliance.

Our European allies share our democratic ideals and are willing to join us in coalitions to promote global stability. A few, such as France, have global military, economic, technological and commercial interests which parallel our own. In France, our diplomacy reaches well beyond bilateral relations to include cooperation and burdensharing on a broad range of global issues.

Embassy Paris, like most other major Embassies, is cutting back sharply its operations while trying to economize. The consulate in Lyon was closed in 1992. In 1996, the Bordeaux consulate also had to be closed. The latter had been in operation since George Washington's Presidency.

In 1996, the Embassy was required to close its travel and tourism office. Its ten person staff, which was handling 100,000 requests for information annually from potential foreign visitors to the U.S., was eliminated. The calls will have to be absorbed or redirected with no increase in staff.

In the past two years, Embassy Paris has cut the operating hours of its communication center by 65 percent. A hiring freeze has been in place for four years, and the Embassy's French work force has not received a pay increase in three years. Twenty-five French employee positions have been marked for elimination. The list of other reductions is long.

In view of these reduced resources, Embassy Paris is making a concerted effort to ''work smarter'' with fewer resources. It has formed ''teams'' to pool interagency assets more effectively. It has negotiated savings of $3,000,000 over five years in local service contracts. It instituted a new interactive automated telephone service for visa applicants which generates $8,000 to $10,000/month in revenues. A consolidation of warehouses is saving $400,000 per years. A new computerized pass and ID system allowed the Embassy to cut 10 Marine guards.

This kind of innovation has allowed cuts to be distributed and absorbed within the Embassy without drastic cutbacks in services thus far. However, this is now likely to change.

The State Department is calling for another round of deep personnel cuts. For Paris, this would entail a 43 percent drop in core diplomatic personnel in the 1995 to 1998 period. Reductions this large will impact heavily on core diplomatic strengths and the Embassy's effectiveness. Some of the effects will be:

Advocacy for U.S. trade and business interests will be reduced in frequency and effectiveness (recent investment problems handled by the Embassy included U.S. firms in the food processing, pharmaceutical and information industries).

The loss of the Embassy's ability to monitor the Paris Club, the organization which negotiates debt rescheduling affecting billions owed the USG by developing countries.

A 50 percent reduction in contacts with the key French officials we must reach if we are to influence French policy and advocate U.S. positions on questions of vital interest to us.

Closure of the Science office at a time when our cooperative exchanges with France on nuclear, space and health technology matters (to mention only three) should be growing rapidly.

Significant cutbacks and slowdowns in passport and welfare services to U.S. citizens. Passport issuance will take 3 to 5 days instead of one. Prison visits will be cut to one per year. Consuls will no longer attend trials of U.S. citizens. The consulate will be open to the public for only two hours per day.

A 60 percent reduction in State Department reporting from Paris, including the political and economic analysis we need on France's activities in Europe, Africa and the Middle East, and Asia.

These trends are disturbing and merit closer attention. The Administration and Congress must work together to assess carefully how budgetary and personnel cutbacks affect our core diplomatic capabilities in Western Europe and elsewhere. This is especially true at a moment when business and information is globalizing and our national interests dictate that we be even more intensively engaged with our key allies than in the past.

(The remarks of Mr. SPECTER pertaining to the submission of Senate Resolution 247 are printed in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

(The remarks of Mr. SPECTER pertaining to the introduction of S. 1681 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SPECTER. I thank the Chair.

I yield the floor, and with that conclude the activities of the Senate today.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until tomorrow morning at 9:30.

Thereupon, the Senate, at 7:23 p.m., adjourned until Thursday, April 18, 1996, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 17, 1996:

DEPARTMENT OF DEFENSE

JOHN W. HECHINGER, SR., OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF 4 YEARS, VICE JOHN P. ROCHE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. DANIEL W. CHRISTMAN, 000–00–0000, U.S. ARMY.